

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION No.
2:21-cv-00096

Hon. Gerald A. McHugh

ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of Plaintiff's Motion for Partial Summary Judgment and Defendant's Cross-Motion for Summary Judgment and Response in Opposition to Plaintiff's Motion for Partial Summary Judgment, it is hereby ORDERED that:

1. Plaintiff's Motion is DENIED;
2. Defendant's Motion is GRANTED; and
3. This Action is DISMISSED with prejudice.

BY THE COURT:

HON. GERALD A. MCHUGH
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION NO.
2:21-cv-00096

Hon. Gerald A. McHugh

**DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT AND RESPONSE IN
OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Local 98, International Brotherhood of Electrical Workers, cross-moves for summary judgment and opposes the Motion of Martin J. Walsh, Secretary, U.S. Department of Labor, seeking Partial Summary Judgment on the grounds the admissible evidence establishes no violation of the LMRDA occurred, specifically that (1) Member Coppinger was neither eligible to run for or nominate others for office, nor was he subjected to improper influence or threats of reprisal in relation to his decision not to run for or nominate Member Battle for office; (2) that Member Battle was not subjected to improper influence or threats of reprisal in relation to his decision not to run for office, and; (3) Member McConnell was not subjected to improper influence or threats of reprisal in relation to his decision not to run for office.

The bases for this Motion are set forth in the accompanying Memorandum of Law, Declaration of Joseph R Podraza, Jr., Esquire, and exhibits thereto. A proposed form of Order is enclosed.

Respectfully submitted:

LAMB MCERLANE, PC

Dated: December 2, 2021

By: /s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esquire
jpodraza@lambmcerlane.com
William H. Trask, Esquire
wtrask@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (direct)
(610) 430-8000 (main)

-and-

CLEARY, JOSEM & TRIGIANI, LLP
William T. Josem, Esquire
wtjosem@cjtllaw.org
325 Chestnut Street, Suite 200
Philadelphia, PA 19106
(215) 735-9099

*Counsel for Defendant, Local 98, International
Brotherhood of Electrical Workers*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

V.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION No.
2:21-cv-00096

Hon. Gerald A. McHugh

**BRIEF IN OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL
SUMMARY JUDGMENT AND IN SUPPORT OF
DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT**

LAMB MCERLANE, PC

Joseph R. Podraza, Jr., Esquire

jpodraza@lambmcerlane.com

William H. Trask, Esquire

wtrask@lambmcerlane.com

One South Broad Street, Suite 1500

Philadelphia, PA 19107

(215) 609-3170 (direct)

(610) 430-8000 (main)

-and-

CLEARY, JOSEM & TRIGIANI, LLP

William T. Josem, Esquire

wtjosem@cjtlaw.org

325 Chestnut Street, Suite 200

Philadelphia, PA 19106

(215) 735-9099

*Counsel for Defendant, Local 98,
International Brotherhood of Electrical Workers*

TABLE OF CONTENTS

INDEX OF EXHIBITS.....	ii
TABLE OF AUTHORITIES	iv
I. INTRODUCTION	1
II. BACKGROUND	2
III. SUMMARY JUDGMENT STANDARD	4
IV. DISCUSSION.....	5
a. Member Coppinger, who was not eligible to nominate Battle or run for office himself, confirmed he never received threats from Local 98 dissuading him from nominating Battle.....	7
b. Member Battle, who became confused and neither completed the standard nomination form nor sought advice from union officials regarding its completion, concedes he was not intimidated from seeking office	11
c. Member McConnell, who explained the DOL statement prepared on his behalf was materially inaccurate, understood the one statement relied upon by the Secretary as evidence of intimidation, could have been taken any number of ways	15
V. CONCLUSION.....	22

INDEX OF EXHIBITS

Exhibit A (Rule 11 Motion)

Motion pursuant to F.R.C.P. No. 11 (without exhibits), served by Local 98 on the Secretary on October 11, 2021

Exhibit B (Nomination-Election Notice)

Notice of Nominations and election of officers and election board of IBEW Local 98, May 18, 2020; DOL_LOCAL 98_00285

Exhibit C (Keiffer Dep.)

Deposition of IBEW International Representative Randy Keiffer, September 9, 2021.

Exhibit D (Welsh Dep.)

Deposition of IBEW International Vice President, Michael Welsh, September 9, 2021

Exhibit E (Posted Signs)

Photographs of signs posted at the IBEW Local 98 union hall, June 9, 2020; DOL_LOCAL 98_00295-96

Exhibit F (Burrows Questionnaire)

Union official interview questionnaire and report of interview of Local 98 President Brian Burrows, September 3, 2020; DOL_LOCAL 98_00436-46

Exhibit G (Chupka Dep.)

Deposition of Tara Chupka, Esquire, September 8, 2021

Exhibit H (Meeting Minutes)

IBEW Local 98 nomination meeting minutes, June 9, 2020; DOL_LOCAL 98_00321-22

Exhibit I (Welsh Letter)

Letter from International Vice President Michael Welsh to Charles Battle dated July 31, 2020; DOL_LOCAL 98_00255-264

Exhibit J (Battle Dep.)

Deposition of Charles Battle, August 12 and 26, 2021

Exhibit K (McConnell Dep.)

Deposition of Timothy McConnell, August 10, 2021

Exhibit L (Coppinger Dep.)

Deposition of Michael Coppinger, September 24, 2021

Exhibit M (Letter or Assent)

Letter of Assent recognizing Coppinger Electric, LLC as a signatory contractor, dated May 12, 2020

Exhibit N (IBEW Constitution)

IBEW Constitution and Rules for Local Unions and Councils Under Its Jurisdiction (2016) (Excerpts); DOL_LOCAL 98_00001-116

Exhibit O (IBEW Basic Laws & Policies)

IBEW Basic Laws and Policies, Member Eligibility to Vote and Hold Office (Excerpts)

Exhibit P (Siegel Declaration)

Declaration of Don Seigel, signed by Don Seigel under penalty of perjury on October 5, 2021

Exhibit Q (Battle Statement)

Statement of Charles Battle, prepared by DOL and signed by Battle on October 13, 2020; DOL-LOCAL 98_00406-10

Exhibit R (DOJ Email)

Email from Lauren DeBruicker, Esquire to Joseph Podraza, Jr., Esquire, dated August 6, 2021

Exhibit S (E. Coppinger Declaration)

Declaration of Ed Coppinger, electronically signed by Ed Coppinger under penalty of perjury on September 16, 2021.

Exhibit T (Borthwick Statement)

Statement of Philip Borthwick signed on October 15, 2020; DOL-LOCAL 98_00413-16

Exhibit U (Battle Emails)

Selected Emails from Charles Battle to Local 98, dated from October 24, 2016 to November 27, 2019; Deposition Exhibit “Battle 14”

Exhibit V (Battle Photo)

Photograph depicting Charles Battle during the first day of his deposition testimony, August 12, 2021.

Exhibit W (Election Guide)

IBEW U.S. Local Union Election Guide (2016) (Excerpts)

Exhibit X (McConnell-Lynch Texts)

Texts from Timothy McConnell to IBEW Local 98 Safety Director Mark Lynch, June 8, 2020; DOL_LOCAL 98_00294

Exhibit Y (Dougherty, Report of Interview)

Report of Interview of IBEW Local 98 Business Manager John Dougherty, November 19, 2020; DOL_LOCAL 98_00464-78

TABLE OF AUTHORITIES

Cases

<i>Accord Acosta v. Loc. 101, Transp. Workers Union of Am. AFL-CIO</i> , 339 F. Supp. 3d 80 (E.D.N.Y. 2018).....	14
<i>Bland v. City of Newark</i> , 900 F.3d 77 (3d Cir. 2018).....	4
<i>Blunt v. Lower Merion Sch. Dist.</i> , 767 F.3d 247 (3d Cir. 2014).....	5
<i>Fraternal Ord. of Police, Lodge 1 v. City of Camden</i> , 842 F.3d 231 (3d Cir. 2016).....	5, 10
<i>In re Weinstein Co. Holdings LLC</i> , 997 F.3d 497 (3d Cir. 2021).....	4
<i>Jacobs v. Cumberland Cty.</i> , 8 F.4th 187 (3d Cir. 2021).....	4
<i>Jiminez v. All Am. Rathskeller, Inc.</i> , 503 F.3d 247 (3d Cir. 2007).....	5, 7, 10
<i>McKinley v. Meier</i> , 456 F. Supp. 3d 673 (E.D. Pa. 2020)	10
<i>Moran v. Pittsburgh-DES Moines Steel Co</i> , 183 F.2d 467 (3d Cir. 1950).....	6
<i>Slater v. Erie Lackawanna Railway Co.</i> , 300 F.Supp. 1 (W.D. Pa. 1968).....	7
<i>Smith v. City of Allentown</i> , 589 F.3d 684 (3d Cir. 2009).....	5, 10
<i>Tomaszewski v. City of Philadelphia</i> , 460 F. Supp. 3d 577 (E.D. Pa. 2020)	10

Statutes

29 U.S.C. § 481(e)	5
--------------------------	---

I. INTRODUCTION

Devoid of admissible supporting facts, the Secretary moves for partial summary judgment on his claims associated with the June 9, 2020 nominations and elections held by Local 98. The Secretary's unnecessarily lengthy fulmination is based in all material respects on vague inferences and several inadmissible statements composed by the DOL for declarants who lack firsthand knowledge of the events and conversations described or who dispute the accuracy and reliability of the DOL statements, or both. Indeed, the Secretary's papers incredibly ignore that the deposition testimony, binding on the Secretary, of the same three union members whom the Secretary contends were disenfranchised on June 9th through alleged acts of intimidation, actually refutes the Secretary's contention. Simply, no admissible evidence exists to establish that the June 9th proceedings were anything other than properly conducted by the Union, and the DOL's assault on the legitimacy of the proceedings is a flat-out prevarication.

If it was less than obvious to the Secretary that this action lacked merit upon completion of the depositions, it was certainly known once he was served with notice of Local 98's intent to move for sanctions under Rule 11 for maintaining his otherwise meritless claims. A copy of Defendant's Motion for Sanctions is attached hereto as Exhibit "A." Rather than acknowledge these defects and own up to the contrary binding testimony of his own witnesses, the Secretary filed the within motion just before the safe harbor period expired, thereby electing, not only to proceed with a lawsuit which lacks both legal and factual support, but to demand partial summary judgment based on inadmissible half-truths and outright falsehoods that are elsewhere discredited in the admissible record. The time has come to put an end to the governmental misuse and abuse of authority manifested by the filing of this fabricated action. The Secretary's motion should be denied, judgment should be entered in the Union's favor, and the Union's Rule 11 sanction petition

pending against the Secretary granted. Alternatively, the case should be directed to proceed to trial.

II. BACKGROUND

The undisputed admissible facts pertinent to the resolution of the Secretary's motion are as follows:

Local 98 mailed each of its members a notice of nominations and election on May 18, 2020, advising that nominations would take place at the Union Hall on June 9, 2020 at 7:00 PM. (Notice of Nomination-Election, Ex. B.) The Notice further provided that acknowledgments of willingness to be nominated for office must be received that same day (June 9th) by 5:00 PM. If properly completed, these nomination forms were sufficient to effectuate a nomination. (Ex. C, Keiffer Dep. at 39:12-16; Ex. D, Welsh Dep. at 60:14-19.) Due to the ongoing COVID-19 pandemic and restrictions imposed by the City of Philadelphia limiting the number of persons permitted to gather indoors, signs were posted outside the Union Hall advising members that rank and file observers would not be admitted, and access to the nomination meeting would be limited to the candidates, nominators and seconds. (Ex. E, Posted Signs; Ex. F, Burrows' Questionnaire) Although the Secretary insists on perpetuating an image of an adversarial meeting in the midst of a gauntlet-like atmosphere, in truth, according to the only admissible evidence of record, the atmosphere at the meeting was friendly, with food and ice cream trucks on site catering to the members who—due to COVID restrictions—mingled outdoors all around the property and along the street, socializing jovially. (*See e.g.* Ex. G, Chupka Dep. at 69:22-70:7.)

The nomination meeting proceeded as scheduled at 7:00 PM on June 9th. As all races were uncontested, the incumbent officers were reelected by acclamation. (Ex. H, Minutes) Such elections by acclamation are common (Ex. C, Keiffer Dep. 137:6-11) as no union member wants

to bear the costs of an election every three years particularly when, as here, all had greatly prospered under the current leadership. (*Id.* at 138:11-18.)

Subsequently, Member Charles Battle, who had neither completed a nomination form nor attended the nomination meeting, submitted a protest claiming he had been deprived of the opportunity to run for the office of president.¹ Upon investigating Member Battle's complaint, Randy Keiffer, the International Union Representative assigned to review Battle's complaint, concluded Battle had been confused about his ability to nominate himself for office (Ex. C, Keiffer 49:14-21), but that he never asked any of the number of available members in the local or district offices for guidance or assistance (*Id.* at 62:1-2, 68:14-22, 70:13-72:21, 81:9-13). Regarding Member Battle's claim that he was intimidated from seeking office by a pre-June 9th visit from a Local 98 Business Agent, Member Robert Bark, Keiffer concluded Bark was a longtime friend of Battle's who visited from time to time. (*Id.* at 84:15-85:25, 87:5-88:20, 92:18-23.) And, in any event, Member Bark's pre-June 9th visit to inquire why Battle had become irate at a recent meeting angered, rather than intimidated, Battle. (*Id.*)

During the internal union investigation, Member Battle advised Keiffer that another member, Timothy McConnell, had been intimidated out of seeking office with threats of reprisal from union officials. Keiffer was eventually able to contact Member McConnell, who described a pre-June 9th phone call with Local 98 Business Manager, John Dougherty, that made McConnell "feel funny." (Ex. C, Keiffer Dep. 122:12-123:9) According to McConnell, Dougherty stated, "if you lose the election, it could be a long three years," although Member McConnell confessed he was not sure what Dougherty meant. (*Id.* at 125:5-14) Ultimately, Member McConnell confirmed he was never directly threatened (*Id.* at 127:5-9), and was adamant that no charges be pursued or

¹ Battle had previously submitted a complaint to the Secretary, but was advised he must wait to challenge the propriety of the election until after the elections were completed.

investigated. (*Id.* at 130:8-16) Upon conclusion of the investigation, and after consideration by the International Vice President Michael Welsh, Member Battle's claims were found to be without merit. (Ex. I, Welsh Letter.)

Member Battle then again called-on the Secretary, although it remains unclear if Battle was consulting with federal representatives (FBI and DOL) both pre-June 9th and immediately after June 9th. DOL agents expeditiously met with Members Battle, McConnell and others identified by Battle as having information related to his claims. These agents composed skewed statements, purportedly on behalf of each witness. (Ex. J, Battle Dep. at 110:11-13, 115:13-25, 126:18-24, 130:18-22 (Battle, confirming DOL agents rather than Battle composed his statement); Ex. K, McConnell Dep. at 133:11-135:19; 144:20-145:9; 146:7-148:5; 152:11-24; 155:18-156:9 (McConnell, also confirming DOL composed his statement on his behalf).) DOL never interviewed Member Coppinger or composed a statement on his behalf, relying instead on the second- and third-hand gossip and rumors of others to make out a claim on Coppinger's behalf.

III. SUMMARY JUDGMENT STANDARD

Federal Rule of Civil Procedure 56 provides that summary judgment is appropriate only where the moving party demonstrates there is no genuine dispute as to any material fact such that the movant is entitled to judgment as a matter of law. At summary judgment, a district court must construe the evidence and draw all reasonable inferences in the light most favorable to the party opposing the motion. *Jacobs v. Cumberland Cty.*, 8 F.4th 187, 192 (3d Cir. 2021), citing *Bland v. City of Newark*, 900 F.3d 77, 83 (3d Cir. 2018). The summary judgment standard does not require a court to draw improbable inferences. *In re Weinstein Co. Holdings LLC*, 997 F.3d 497, 510 (3d Cir. 2021). The "obligation to view the evidence in the light most favorable to a non-movant does *not* require the court to take into account evidence that will not be admissible at the trial."

Blunt v. Lower Merion Sch. Dist., 767 F.3d 247, 297 (3d Cir. 2014) (emphasis in original). “[T]he rule in this circuit is that hearsay statements can be considered on a motion for summary judgment if they are *capable of being admissible at trial*.” *Fraternal Ord. of Police, Lodge 1 v. City of Camden*, 842 F.3d 231, 238 (3d Cir. 2016) (emphasis in original). But “[h]earsay statements that would be inadmissible at trial may not be considered for purposes of summary judgment.” *Smith v. City of Allentown*, 589 F.3d 684, 693 (3d Cir. 2009). As importantly, deposition testimony is deemed more reliable than a declaration or an affidavit, and, therefore, the latter cannot be allowed to contradict the former. *Jiminez v. All Am. Rathskeller, Inc.*, 503 F.3d 247, 253-54 (3d Cir. 2007).

IV. DISCUSSION

Under the Labor-Management Reporting and Disclosure Act ("LMRDA"), “a reasonable opportunity shall be given for the nomination of candidates and every member [meeting reasonable, uniformly imposed qualifications] ... shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof.” 29 U.S.C. § 481(e). The admissible evidence of record—the only evidence the Court may consider at this stage of the proceeding in considering the Secretary’s motion—demonstrates every Local 98 member (over 4,000 in total) was given the same, reasonable opportunity to participate in the June 9th union nominations and elections. Of these members, the Secretary claims three (Members Coppinger, Battle, and McConnell) withdrew from consideration for office, or refrained from exercising nomination rights, due to intimidation and threats of retaliation.

To place the Secretary’s action in proper context, no admissible evidence exists that either of the two potential candidates (Members Battle and McConnell) were considered viable or otherwise would have posed any threat to the leadership’s incumbency, had they even decided to

follow through with their respective candidacies. It is undisputed that, unlike the incumbents who had successfully maintained high wages, affordable benefits and steady employment for the members, and greatly improved the stations of the members over their terms of office (Ex. K, McConnell Dep 223:12-226:4), Members Battle and McConnell had no union leadership experience whatsoever, did not attend executive board meetings or participate in union activities, and only very sporadically even attended regular union meetings, preferring to spend time engaged in non-union activities when not at work. (*See* Ex. K, McConnell Dep. 15:19-22:16; Ex. J, Battle Dep. 187:11-24) In fact, Member Battle, when he appeared at the Union Hall on June 9th to begin filling out his nomination form, had not even decided what office he wanted to run for, and ultimately left without completing the form at all. (Ex. J, Battle Dep. 264:3-265-13.) Even Member McConnell candidly acknowledged that John Dougherty—the business manager the Secretary claims threatened McConnell, forcing his withdrawal—had no concerns that any incumbent would be defeated in the election. (Ex. K, McConnell Dep. 215:14-217:23) This is all to say, there is simply no evidence on this record that these untested, unpopular contrarians could win, such as might motivate the current union leadership to resort to the untoward tactics alleged by the Secretary.

Nevertheless, as discussed below in turn, even putting aside the absence of motivation for the incumbent union leadership to subvert the candidacies as alleged here by the Secretary, each of these members undeniably testified under oath that the Secretary's allegations of intimidation/retaliation are unfounded. While ignored in the Secretary's papers, these three witnesses offered by the Secretary in support of his claims constitute the nexus of the Plaintiff's case, and their testimony—good, bad or indifferent—is binding on him. *See, e.g., Moran v. Pittsburgh-DES Moines Steel Co*, 183 F.2d 467, 471 (3d Cir. 1950) (party may be bound by

unfavorable testimony supplied by supposedly favorable witness); *Slater v. Erie Lackawanna Railway Co.*, 300 F.Supp. 1, 3 (W.D. Pa. 1968). The Secretary may not now, after his witnesses have disclaimed allegations of improper intimidation at deposition, simply ignore that testimony in favor of conflicting, self-serving statements previously composed by DOL. *See Jiminez*, 503 F.3d at 253-54.

a. Member Coppinger, who was not eligible to nominate Battle or run for office himself, confirmed he never received threats from Local 98 dissuading him from nominating Battle.²

The Secretary's claims based on the alleged intimidation of Member Michael Coppinger are wholly contrived. To begin with, per the IBEW Constitution, it is undisputed that Member Michael Coppinger was not eligible to run for office, eligible to nominate others for office, or even eligible to attend or participate in union meetings. Member Coppinger testified that he and his wife had founded an electrical contracting business, which had become a signatory contractor with Local 98 effective May 12, 2020. (Ex. L, Coppinger Dep. at 112:11-15; *see also* Ex. M, May 12, 2020 Letter of Assent between Coppinger Electric, LLC and IBEW Local 98.) As the IBEW Constitution provides in pertinent part,

No [Local Union] shall allow any member who becomes an electrical employer, a partner in an electrical employing concern, a general manager, or other managerial position, to hold office in the L.U. or attend any of its meetings, or vote in any election of a L.U.

(IBEW Const. Art. XV, Sec. 5, pertinent portions of which are attached as Ex. N.) Furthermore, IBEW's Basic Laws & Policies state,

No local union may allow any member who becomes an electrical employing concern, or a general manager or other managerial position, to hold office in the local union or attend any of its meetings or vote in any of its elections.

² Without repeating the basis thereof, Local 98 continues to contend that the Secretary's claims based on Coppinger were not preserved, are not properly before this Court for adjudication, and therefore should, for that separate reason, be summarily resolved in Local 98's favor.

(IBEW Basic Laws & Policies, “Member Eligibility to Vote and Hold Office,” pertinent portions of which are attached as Ex. O.) Thus, as of May 12, 2020—nearly a month before the June 9, 2020 nominating meeting— Member Michael Coppinger was considered an electrical employer doing business with Local 98 as a signatory contractor and was, as a result, categorically ineligible to run or nominate others for office, vote in any election, or even attend union meetings. (*See* Ex. P, Declaration of Don Siegel.)

And even ignoring—as the Secretary has surely ignored— Member Coppinger’s dispositive ineligibility to run or nominate others for office by virtue of his status as a signatory contractor, the Secretary’s claim that Coppinger declined running for office or nominating Battle due to threats he received from local union officials is predicated solely on statements prepared by DOL agents recounting gossip or rumors attributed to this or that witness regarding a call Coppinger received from his relative. (*See* Battle Statement, Ex. Q at 409.) Member Coppinger never met with DOL or provided DOL agents with a statement, and DOL never prepared a statement on his behalf. (Ex. R, DOJ Email, Aug. 6, 2021.)

Member Coppinger was, however, deposed in this case. During that deposition, Member Coppinger testified without reservation that, although he briefly considered running for a position on the Executive Board, Coppinger decided a month prior to the June 9, 2020 nomination meeting that he would not run for any office due to health reasons, specifically a tumor discovered near his spine, painful diabetic ulcers on his feet, and the anxiety both these conditions were causing him. (Ex. L, Coppinger Dep. at 16:3-17:24.) Member Coppinger was prodded continuously by the Secretary’s counsel during the course of his deposition to give some other reason, and he repeatedly confirmed that concern for his health was the only reason he decided not to get involved. (*Id.* at 24:7-8; 26:8-12; 27:13-15; 29:13-15; 30:1-3; 36:21-24; 37:16-19; 55:1-11.) Moreover, he

testified his decision not to run for any office was made well before any of the alleged threatening communications recounted in the Secretary's Amended Complaint. (*Id.* at 23:19-23; 51:22-52:4.)

Similarly, Member Coppinger confirmed his decision not to nominate Battle for office—after only reluctantly agreeing to do so in the first place—was not due to union threats issued through his relative, Ed Coppinger, as the Secretary contends. (Ex. L, Coppinger Dep. 23:3-22; 48:10-16; 53:19-24; 69:16-19.) With Member Coppinger hesitant to nominate anyone, Battle had pressed him relentlessly up into the day of the nomination itself. (*Id.* at 52:5-8.) Still struggling with ongoing health issues, Member Coppinger did not even get to the union hall the night of the nomination meeting until late. (*Id.* at 46:7-11)

When confronted directly regarding the call from Ed Coppinger, a relative, on the eve of the nomination meeting—a call the Secretary contends without evidence represented improper intimidation by the Union— Member Coppinger confirmed the call had nothing to do with his decisions not to run or nominate. (Ex. L, Coppinger Dep. at 70:16-19.) As Member Coppinger explained: by the time of the call, he had already decided for health reasons not to run (*Id.* at 68:16-19; 70:16-19.). Moreover, Ed Coppinger, the caller, was not even aware that Michael had ever considered running or nominating anyone for office (*Id.* at 90:12 – 91:4.); never threatened or relayed threats of retaliation should Michael become involved in the election; nor did the two even discuss the election at all. (*Id.* at 70:3-4; 91:9-15; 110:24-111:4; 111:12-20; Ex. S, Declaration of Ed Coppinger.) In fact, Member Michael Coppinger confirmed the accuracy of Ed Coppinger's own recollection of the call, which was memorialized in a sworn declaration that Michael Coppinger reviewed during the deposition. (Ex. L, Coppinger Dep. at 73:17-92:3.; *see also* Ex. S, Declaration of Ed Coppinger.) Curiously, the Secretary elected not to depose Ed Coppinger.

The Secretary, rather than confront Member Coppinger’s sworn testimony, incredibly ignores it, choosing instead to improperly rely on the hearsay/rumors/gossip of third parties as recorded in statements prepared by the Secretary’s own agents. For example, to support the assertion that Member Coppinger was improperly dissuaded from nominating Battle—the only allegation in this action pertaining to Coppinger—the Secretary relies on Member Battle’s statement, drafted by DOL agents, in which Battle describes learning from Member Borthwick that Coppinger told Borthwick he decided not to nominate Battle after receiving a call from his “uncle.” (Secretary’s Brief, Dkt. No. 27 at p. 46, citing Battle Statement, Ex. Q at 409). Member Borthwick, in turn, claims cryptically in his DOL statement he spoke to Member Coppinger after the nomination meeting and knows who Coppinger spoke to and what was said. (Ex. T, Borthwick Statement at 416)

But courts will not dignify affidavits to establish a genuine factual dispute where such affidavits conflict with sworn deposition testimony, and instead will bar the use of such contradictory affidavits at the summary judgment stage because sworn deposition testimony is inherently more reliable. *Jiminez*, 503 F.3d at 253-54. Even setting aside the unreliable nature of the rumors and gossip recounted in the DOL statements, particularly given the testimony of the “affiants” disclaiming their accuracy, hearsay within hearsay within hearsay is not admissible in any court, and may not be used here as a basis for awarding summary judgment. *Smith v. City of Allentown*, 589 F.3d 684, 693 (3d Cir. 2009) (“Hearsay statements that would be inadmissible at trial may not be considered for purposes of summary judgment”); *see also Fraternal Ord. of Police, Lodge 1*, 842 F.3d at 238 (inadmissible hearsay may not be considered in awarding summary judgment); *McKinley v. Meier*, 456 F. Supp. 3d 673, 677 (E.D. Pa. 2020) (same); *Tomaszewski v. City of Philadelphia*, 460 F. Supp. 3d 577, 596 (E.D. Pa. 2020) (same). In contrast,

the *only admissible evidence* concerning the substance of the phone call between Ed and Member Michael Coppinger is the testimony of Michael Coppinger and the unchallenged declaration of Ed Coppinger, both of whom rebut the Secretary's third-hand version of their conversation. Given Member Coppinger himself has denied the truth of the Secretary's allegations, there is simply no evidence to support the Secretary's contention that Coppinger was intimidated or threatened, even if the Coppinger claims were properly preserved (which they are not). These claims of intimidation or threats must, as a matter of law, be resolved in the Union's favor.

b. Member Battle, who became confused and neither completed the standard nomination form nor sought advice from union officials regarding its completion, concedes he was not intimidated from seeking office.

Beginning in late 2019, Member Charles Battle admittedly had become increasingly belligerent at union meetings toward local union officials. (Ex. G, Chupka Dep. 59-60) As reflected in his email communications, Battle's hostility correlated with his son-in-law's inability to reenter the coveted apprenticeship program after being dismissed from the program for his drug use. (Ex. U, emails from C. Battle.) By November 2019, Member Battle's son-in-law was still not included in the incoming apprentice class. (*Id.*) Noticeably angered by this development, at the November 2019 general meeting, members present noticed a marked change in Member Battle's behavior, describing him as belligerent. (Ex. J, Battle Dep. 154:2-155:18) Member Battle, himself, admits he acted belligerently at the November 2019 general meeting and each other meeting which was held thereafter before the June 9th nominations and elections. (*Id.*) Prior to June 9th, Member Robert Bark, a business agent and longtime friend of Member Battle's, reached out to learn the cause of Battle's sudden hostility, but these efforts were rebuffed. (*Id.* at 154:12-155:2; 245:11-246:1.)

Member Battle claims he decided to run for local union office, ultimately settling on the office of president. (*Id.* at 240:14-17; 129:11-12) However, according to Member Battle, he became confused by the nomination process and admittedly neither completed the paperwork nor appeared for the in-person nomination meeting, one of which was a necessary prerequisite to nomination. (*See, e.g.*, Ex. C, Keiffer Dep, 49:14-21.) Nevertheless, the Secretary, again based on the statement composed by DOL officials and without reference to or acknowledgement of Member Battle’s contrary sworn testimony, claims Battle failed to secure his nomination due to threats by Local 98 officials.

But the admissible record does not support the Secretary’s claims, much less provide an undisputed account that warrants the grant of partial summary judgment in his favor.

Claims by the Secretary that Member Battle was intimidated turn on a pre-June 9th visit to Battle’s home by Member Robert Bark, a longtime friend. Setting aside the dispute over the propriety of Member Bark’s visiting his friend to inquire into the cause of Member Battle’s recent belligerency, what remains undisputed is that Battle appeared for the June 9th meeting as directed in the notice and began filling out the necessary nomination paperwork in spite of Bark’s visit. (Am. Compl., Dkt, No. 20, at ¶¶ 26-34.) Member Battle even expressly denied that he felt intimidated at the June 9th nominating proceeding. Specifically, the Secretary claims—based on the statement prepared by DOL—that Member Battle was afraid to attend the meeting, which would have required his running a “gauntlet” of the incumbents’ supporters. But when asked directly at his deposition why, after failing to complete his nomination form, he did not just attend the meeting in person, he explained that he was confused about when and where he should go, and, rather than ask anyone for guidance, he just went to his truck and left. (Ex. J, Battle Dep. at 274:19-22, 263:17-22.)

Member Battle is hardly the shrinking violet the Secretary misleadingly implies in his moving papers. Far from being intimidated, Member Battle's immature disdain for union leadership was even manifest at his deposition where he chose to continually make rude finger gestures towards those union representatives in attendance. (*See* Ex. V.) In any event, it is



Ex. V, Member Battle, gesturing deliberately toward Local 98 representatives and their counsel during the first day of his deposition.

undisputed that Member Battle testified that he decided against pursuing his candidacy out of unspecified imagined “consequences” to other members if one of them were to nominate him for office—not out of personal fear in any sense. (Ex. J, Battle Dep. at 271:18-272:11, 276:7-13.) According to Member Battle, his irrational “concern” for others compelled him to reject offers by others to nominate him and to instead decide to walk away. (*Id.*) But, as discussed further below, his “concern” was unquestionably irrational since the “concern” could easily have been allayed by his self-nomination, an option then available to Member Battle.

Despite these alleged imagined and unspecified concerns, there is no dispute that Member Battle failed to complete the actual nomination form himself. (Am. Compl., Dkt, No. 20, at ¶ 33; Ex. J, Battle Dep. at 278:20-279:2; Ex. C, Keiffer Dep. 68:14-22.) Member Battle now claims he was confused about whether he could nominate himself for office, (Ex. J, Battle Dep. at 263:3-8,

266:24-267:3, 273:24-274:22.). But the Union had a longstanding policy which allowed a member to self-nominate (a written policy about which Battle knew or should have been aware), and the right to self-nominate was widely known throughout the membership. (Ex. C, Keiffer Dep. 81:14-19; Ex. D, Welsh Dep. 40:1-7; and Ex. W, IBEW Local Union Election Guide (confirming members' ability to self-nominate). Admittedly, Member Battle never asked anyone for guidance, including Member Coppinger who understood self-nomination was permissible, and Battle chose to leave the Union Hall before the meeting even began. (Ex. J, Battle Dep. at 265:12-13, 304:16-305:6; *see also* Ex. L, Coppinger Dep. at 59:2-11; 102:11-13; 103:21-104:4.)

Thus, unlike in the Secretary's Amended Complaint, the record demonstrates Member Battle failed to be nominated for office, not because he was threatened or intimidated, and not due to any intimidation of Member Coppinger—who was himself ineligible and in too much pain to participate (*see* IV.a., *supra*)— but because Battle failed to self-nominate or complete the same nomination form every other prospective nominee was provided and completed. Requiring Member Battle to self-nominate or complete and submit the same form as everyone else is not an unreasonable requirement for nomination, and the Secretary does not contend otherwise in his moving papers. *Accord Acosta v. Loc. 101, Transp. Workers Union of Am. AFL-CIO*, 339 F. Supp. 3d 80, 90 (E.D.N.Y. 2018) (disqualification of member for failure to comply with facially reasonable, uniformly imposed rule requiring member to complete letter of acceptance was reasonable.) And there is certainly no allegation—much less evidence—that Member Battle was prevented or discouraged from completing the form by any representative of Local 98. In sum, Local 98 cannot be held responsible for Member Battle's failure to arrange to be nominated for office by another eligible member or himself. The Secretary's contention that threats of reprisal

caused Member Battle to withdraw himself from consideration are without evidence, unsupported even by the testimony of Battle himself.

- c. **Member McConnell, who explained the DOL statement prepared on his behalf was materially inaccurate, understood the one statement relied upon by the Secretary as evidence of intimidation, could have been taken any number of ways.**

Finally, the Secretary's allegations concerning Member McConnell are predicated on now-known gross misrepresentations contained in his statement, which was earlier composed by DOL agents. Given his testimony at deposition, we now know that the DOL statement deliberately obscures the timeline and implies falsely that Member McConnell received numerous calls prior to deciding against running for office, and that statements attributed to Local 98 members were in relation to McConnell's decision to run for office, rather than—as McConnell would testify—McConnell's perceived association with a website created, financed and administered (by Member Battle) for the purpose of disparaging certain of Local 98's members and their families.

From Member McConnell's deposition, we further learned the Secretary's embellishments in DOL's prepared statement for him are not subtle, and exemplify the agency's tendency to stretch these statements to support the claims rather than reflect the facts. For example, in both Member McConnell's statement and the Secretary's Amended Complaint—neither of which was prepared by McConnell himself—the Secretary alleges that McConnell notified Safety Director Mark Lynch by text message on June 8, 2020 that he was considering running for office. (Am. Compl., Dkt, No. 20 at ¶ 48, and Ex. 6 thereto at DOL_LOCAL 98_00421.1.) After recounting “four hours fielding non-stop phone calls” later that night and more calls received by Member McConnell throughout the following day, the Secretary states that McConnell texted Lynch again and advised Lynch of his decision not to run. (Am. Compl., Dkt, No. 20, Ex. 6 at 412.3.) Member McConnell testified under oath that the Secretary's factual account is simply not true. The DOL statement

and Amended Complaint, by omitting the date and time of Member McConnell's second text message to Lynch, give the impression McConnell's decision not to run came *after* receiving all these calls. In truth, Member McConnell's second text to Lynch followed the first by approximately 90 minutes. (*See* Ex. X, McConnell Text Thread to Lynch.) Said another way, no "four hours" of non-stop calls impacted Member McConnell's decision not to run—he had already decided not to run and informed the union of his decision before he received any such calls. Member McConnell confirmed the shorter, accurate timeline during his deposition. (Ex. K, McConnell Dep. at 55:10-19; 89:7-22.)

Only because Member McConnell was deposed did we additionally learn that the many inaccuracies in his DOL-prepared statement were the result of DOL's composition, completed well after McConnell met with agents to be interviewed, rather from errors in his own recollection. (Ex. K, McConnell Dep. 133:8-15; 134:22-135:19.) Member McConnell even testified that DOL's omitting any dated or chronological reference to his second June 8, 2020 text message in the DOL-prepared statement was material, even disturbingly misleading:

Q. Well, where in the statement attributed to you does it say that you sent a second text message to Lynch on June 8th later in the evening.

A. I don't know.

Q. Well, take your time. Go through it. Show me where it is.

A. No, I don't see it.

Q. That's important information, don't you think?

A. Yes.

Q. Yeah, wouldn't it be important to know that I initially said I'm thinking of running, and as time passed, whatever happened in between, I then said, I'm not running? That's something you'd want to put factually in your statement to be factually accurate, correct?

A. Yeah, if I – I mean –

Q. Yeah. I mean, if you want to leave a false impression that I told them I'm going to run and never said I wasn't going to run, then you wouldn't make reference to your text, right?

A. Yeah.

* * *

Q. Well, why doesn't it say in there then – you know, while you may have been in your backyard fielding calls, you had already told Lynch well before that that you weren't running. So why is that not in here?

A. I don't know.

(Ex. K, McConnell Dep. 144:20-146:5; 147:23-148:5) (objections omitted)

In another example of Member McConnell's testimony establishing that the Secretary took broad liberties with the facts in composing McConnell's DOL statement, reference is made to James Ryan who, according to the Secretary's DOL statement called McConnell and warned him against running lest he suffer union retaliation. In the statement the Secretary composed for Member McConnell, only after Ryan's warning does McConnell decide not to run and text Lynch with his decision. In reality, however, according to Member McConnell's deposition testimony, his mind was long since made up by the time Ryan called him on June 9th, and McConnell told him so. (*Id.* at 149:15-23.) Indeed, Member McConnell had already informed the Union on June 8th of his decision not to run, a day before he spoke with Ryan on June 9th. When confronted with the obvious error in the Secretary's statement, Member McConnell conceded the Secretary's creative wording gave a wrong impression of the facts.

Q. And if you turn to your last page, it says there, "I talked with Ryan the following morning, June 9th, 2020. Ryan said to me, I guess you decided to run." It doesn't say anything there that -- even if you accept that, that you said, no, I already told the union last night I'm not running, it's not in there.

Q. Is it because of you or because of the representative from the DOL didn't include that?

A. I don't recall.

Q. Well, you agree with me that at least indicating that on June 8, 2020, you told the union you weren't running, and if Ryan then called you and made that mistake, you would have just said, look, it's a mistake and I'm not running, correct?

A. I don't remember. I mean, yeah, if that's -- well, I didn't talk to Jimmy -- I didn't talk to Jimmy the day before, so I'm betting -- or Jimmy didn't know that, that I was out yet. He just -- it was from the conversation I had with Brian Eddis the night before.

Q. But when speaking with Ryan, even if he didn't know and accepting what you're saying, you certainly told him, hey, I'm out, I already told them, I gave them a text, I'm out as of June 8, 2020, correct?

A. Yeah. I mean, I probably told him after he said that.

Q. But I don't see that here in this statement. Don't you think that's important information?

A. Yeah. I mean, I don't know.

Q. Doesn't this kind of lead you to believe that you're still a candidate on June 9, 2020, when your text has already said you're not as of June 8th, 2020?

A. Yeah. I mean --

Q. And I'm not blaming you. I'm just saying whoever prepared this statement didn't seem to care about the fact that you had texted Mr. Lynch, your good buddy, during the night of June 8, 2020, to say I'm not running. Isn't that your impression?

A. I guess.

(Ex. K, McConnell Dep. 148:7-150:23) (objections omitted)

At the end of his deposition, we learned from Member McConnell that he had a single phone conversation with Business Manager John Dougherty before notifying Member Lynch on June 8th he had reconsidered running. McConnell decided not to run because he did not want to be associated with the offensive website Member Battle had created to tastelessly disparage other union members and officials. (Ex. B, McConnell Dep. at 91:1-14; *see also* Ex. X ("I'm 100% against what happened on that website and don't want to be tied in with that...").) And, the Secretary's portrayal of the call as nefarious is untrue.

Member McConnell testified that during the call, Dougherty became upset while discussing the website, which among other things disparaged Dougherty's wife and daughter. Suspecting Member McConnell's involvement with the website, Dougherty stated "If you're not with me, you're against me!" (Ex. K, McConnell Dep. at 91:1-92:21.) Member McConnell agreed during his deposition that those anonymously posting comments about Dougherty, his family, etc., clearly would not be "with him" and would be "against him." (*Id.* at 92:12-21.) Agreeing with this proposition, Member McConnell then testified that he considered Dougherty's statement as commentary on McConnell's potential association with the despicable website, but not having anything to do with McConnell considering running for the Executive Board. (*Id.*)

Member McConnell further testified that the other noteworthy statement Dougherty made during their June 8th call involved Dougherty expressing concern for the union and its members should inexperienced members (like McConnell) serve on the Executive Board:

Q. All right. Now, during that call didn't Mr. Dougherty question your running for the executive board because you had not served in any position with the union during the 16 years of your membership?

A. He might have, yeah, made reference to union meetings. Yeah, I mean, I don't -- I don't remember that part. Say it again. I'm sorry.

Q. Sure. Didn't Mr. Dougherty question your running for the executive board because you had not served in any position with the union during the 16 years of your membership?

A. That was part of it I think.

Q. All right. And didn't Mr. Dougherty suggest during that call an effective board requires members who are active in union activities?

A. I remember, yeah, stuff like why fix something that ain't broken and stuff like that. I don't remember exactly what you just said.

Q. All right. Well, we'll get into some of that, but if you could answer my question now because these are specific questions. Do you recall Mr. Dougherty suggesting that an effective board requires members who are active in union activities?

A. I guess. I don't really remember that part.

Q. Well, do you remember Mr. Dougherty suggesting that the experience he believes needed to serve effectively on the board could only be gained by and through service with the union?

A. Yes.

Q. And do you also remember Mr. Dougherty saying, you know, words to the effect that a board which is not effective during its three-year term could hurt the union and its members?

A. Say that again.

Q. Sure. That Mr. Dougherty said -- and I'm -- it could be words to this effect, okay -- that a board which is not effective during its three-year term could hurt the union and its members.

A. I don't remember some of that.

Q. Well, do you think it makes sense?

A. It makes sense.

Q. And didn't Mr. Dougherty infer to you during the call that you weren't ready to effectively serve the members if you won a three-year term on the board?

A. I don't remember that.

Q. And didn't Mr. Dougherty suggest you should run for a less prominent position with the union first before running for the board?

A. That was never said.

Q. You're positive?

A. I don't recall that being said.

Q. Well, we've gone from it never said to I don't recall. Which one is it?

A. I don't think he said that, no.

Q. Now, would you agree that an executive board filled with ineffective leaders serving three years could be harmful to the union?

A. Yes.

(Ex. K, McConnell Dep. at 61:5-64:9) (objections omitted).

The nature and substance of this second aspect of the June 8th conversation between Dougherty and Member McConnell—a conversation lasting 45 minutes, according to Member McConnell—was inexplicably oversimplified and decontextualized in the statement DOL representatives composed for McConnell in October 2020, thereby changing its meaning altogether. Where the emphasis during the phone call was on Dougherty’s concern about inexperienced members serving on the Executive Board, the DOL statement focused solely on Dougherty saying to Member McConnell words to the effect that “It’ll be a long three years if you lose,” without any of the accompanying context. (Ex. K, McConnell Dep. at 106:17-107:2.) The evolution over time of the substance of the second statement attributed to Dougherty in the June 8th call remains a perplexing mystery.³ But, in any event, Member McConnell testified that he was not even sure what message Dougherty actually intended to convey, and further confirmed he (McConnell) did not perceive the statement to be a direct threat. (*Id.* at 105:18-19.)

Finally, hoping the Court will draw an inference of retaliation, the Secretary alleges that a week after signing the statement the Secretary had prepared, Member McConnell was laid off from his union job. (Am. Compl., Dkt, No. 20, at ¶ 60.) But if the Secretary was aware of that, the Secretary must have also been aware that the job on which Member McConnell was employed was coming to an end, and McConnell immediately transitioned to a new job without any loss of time or pay. (Ex. K, McConnell Dep at 183:10-184:22.) And there is no evidence of record that Union leadership was even aware Member McConnell was in contact with DOL or prepared to sign a statement composed by DOL. Even Member McConnell refused to connect his layoff to his

³ In discovery, the Secretary produced a report of interview involving Dougherty in which the Secretary contends Dougherty was asked “whether he told McConnell ‘you’re either with us or against us. If you’re against us, it’ll be a long three years’,” yet another iteration of the conversation between Dougherty and McConnell on June 8th. This iteration plainly establishes the second of the two alleged statements was also unrelated to the election or McConnell’s running for office. (Ex. Y, Report of Interview, J. Dougherty, dated Nov. 19, 2020, at p. 7 (DOL_LOCAL 98_00591).)

criticisms of Local 98's leadership or passing electoral ambitions. (*Id.* at 184:2-22.) And moreover, it is undisputed that McConnell has suffered no loss of work, reduction in pay, or other negative consequence that could possibly qualify as retaliation. (*Id.* at 185:17-186:1.)

In sum, the Secretary bases the entire claim as it relates to Member McConnell on two admittedly ambiguous, election-neutral statements coupled with the selective omission of certain facts to mischaracterize events preceding the nominations. As for admissible evidence that supports the Secretary's contentions, there is none, and the Secretary's motion for partial summary judgment as it pertains to Member McConnell should be denied.

V. CONCLUSION

The admissible record evidence establishes that the June 9, 2020 nominations and elections were properly conducted by Local 98. Governmental claims that the proceeding was undermined by acts of intimidation or threats of retaliation are trumped-up. The Secretary has known for some time that this action is baseless, but sadly continues to press on with it in defiance of any standard of good governance. The malicious excess of governmental power evidenced here must be curtailed, should be sharply rebuked, and cannot be allowed to disenfranchise the political will of the 4,000+ members of Local 98 expressed on June 9th.

For all the foregoing reasons, Defendant, Local 98, International Brotherhood of Electrical Workers respectfully requests that this Court deny the Motion of Plaintiff Martin J. Walsh, Secretary of Labor, for Partial Summary Judgment, and grant summary judgment in favor of Local 98 or, in the alternative, allow the case to proceed to trial.

Respectfully submitted:

LAMB MCERLANE, PC

Dated: December 2, 2021

By: /s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esquire
jpodraza@lambmcerlane.com
William H. Trask, Esquire
wtrask@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (direct)
(610) 430-8000 (main)

-and-

CLEARY, JOSEM & TRIGIANI, LLP

William T. Josem, Esquire
wjosem@cjtllaw.org
325 Chestnut Street, Suite 200
Philadelphia, PA 19106
(215) 735-9099

*Counsel for Defendant, Local 98, International
Brotherhood of Electrical Workers*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

V.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION No.
2:21-cv-00096

Hon. Gerald A. McHugh

DECLARATION OF JOSEPH R. PODRAZA, JR.

I, Joseph R. Podraza, Jr., Esquire, am counsel to Local 98, International Brotherhood of Electrical Workers, the Defendant in this action, and in support of Defendant's Cross-Motion for Summary Judgment, and in Opposition to the Plaintiff's Motion for Summary Judgment, declare as follows:

1. Attached as Exhibit A is a true and correct copy of Defendant's Motion pursuant to F.R.C.P. No. 11 (without exhibits), Dkt. No. 28, served by Local 98 on the Secretary October 11, 2021.

2. Attached as Exhibit B is a true and correct copy of the Notice of Nominations and election of officers and election board of IBEW Local 98, May 18, 2020.

3. Attached as Exhibit C is a true and correct copy of Deposition of IBEW International Representative Randy Keiffer taken on September 9, 2021.

4. Attached as Exhibit D is a true and correct copy of the Deposition of IBEW International Vice President, Michael Welsh taken on September 9, 2021.

5. Attached as Exhibit E is a true and correct copy of the photographs of signs posted at the IBEW Local 98 Union Hall, June 9, 2020.

6. Attached as Exhibit F is a true and correct copy of the Union official interview questionnaire and report of interview of Local 98 President Brian Burrows, September 3, 2020.

7. Attached as Exhibit G is a true and correct copy of the Deposition of Tara Chupka, Esquire taken on September 8, 2021.

8. Attached as Exhibit H is a true and correct copy of the IBEW Local 98 nomination meeting minutes for June 9, 2020.

9. Attached as Exhibit I is a true and correct copy of the Letter from International Vice President Michael Welsh to Charles Battle dated July 31, 2020.

10. Attached as Exhibit J is a true and correct copy of the Depositions of Charles Battle taken on August 12 and 26, 2021.

11. Attached as Exhibit K is a true and correct copy of the Deposition of Timothy McConnell taken on August 10, 2021.

12. Attached as Exhibit L is a true and correct copy of the Deposition of Michael Coppinger taken on September 24, 2021.

13. Attached as Exhibit M is a true and correct copy of the Letter of Assent recognizing Coppinger Electric, LLC as a signatory contractor, dated May 12, 2020.

14. Attached as Exhibit N is a true and correct copy of Excerpts of the IBEW Constitution and Rules for Local Unions and Councils Under Its Jurisdiction (2016).

15. Attached as Exhibit O is a true and correct copy of Excerpts of the IBEW Basic Laws and Policies, Member Eligibility to Vote and Hold Office.

16. Attached as Exhibit P is a true and correct copy of the Declaration of Don Seigel, signed by Don Seigel under penalty of perjury on October 5, 2021.

17. Attached as Exhibit Q is a true and correct copy of the Statement of Charles Battle, prepared by DOL and signed by Battle on October 13, 2020.

18. Attached as Exhibit R is a true and correct copy of the Email from Lauren DeBruicker, Esquire to Joseph R. Podraza, Jr., Esquire, dated August 6, 2021.

19. Attached as Exhibit S is a true and correct copy of the Declaration of Ed Coppinger, electronically signed by Ed Coppinger under penalty of perjury on September 16, 2021.

20. Attached as Exhibit T is a true and correct copy of the Statement of Philip Borthwick signed on October 15, 2020.

21. Attached as Exhibit U is a true and correct copy of Selected Emails from Charles Battle to Local 98, dated from October 24, 2016 to November 27, 2019.

22. Attached as Exhibit V is a true and correct copy of the Photograph depicting Charles Battle during the first day of his deposition testimony, August 12, 2021.

23. Attached as Exhibit W is a true and correct copy of Excerpts of the IBEW U.S. Local Union Election Guide (2016).

24. Attached as Exhibit X is a true and correct copy of text messages from Member Timothy McConnell to IBEW Local 98 Safety Director Mark Lynch, June 8, 2020.

25. Attached as Exhibit Y is a true and correct copy of the Report of Interview of IBEW Local 98 Business Manager John Dougherty, November 19, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 2nd day of December, 2021.

/s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esquire
jpodraza@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (direct)
(610) 430-8000 (main)

Ex. A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION NO.
2:21-cv-00096

Hon. Gerald Austin McHugh

ORDER

AND NOW, this _____ day of _____ 2021, upon due consideration of the Motion of Defendant, Local 98, International Brotherhood of Electrical Workers for Sanctions Pursuant to Fed. R. Civ. P. 11, and any response thereto, it is hereby ORDERED and DECREED that Defendant's Motion is GRANTED. Plaintiff's action is DISMISSED with prejudice.

Defendant Local 98 is directed to submit a declaration of costs and expenses, including attorneys' fees, within ten (10) days of the date of this Order. Plaintiff may submit any opposition thereto within seven (7) days after receipt of Defendant's declaration.

BY THE COURT:

Hon. Gerald Austin McHugh

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

V.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS.

Defendant.

CIVIL ACTION No.
2:21-cv-00096

Hon. Gerald Austin McHugh

**DEFENDANT'S MOTION FOR SANCTIONS AGAINST PLAINTIFF
PURSUANT TO FED. R. CIV. P. 11**

Defendant, Local 98, International Brotherhood of Electrical Workers (“Local 98”), by and through its undersigned counsel, hereby moves this Honorable Court for an Order awarding appropriate sanctions against Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor (“the Secretary”), for violating Federal Rule of Civil Procedure 11.

In support of this Motion, Defendant Local 98 incorporates by reference the accompanying Memorandum of Law.

Respectfully submitted:

LAMB MCERLANE, PC

Dated: October 11, 2021

By: */s/ Joseph R. Podraza, Jr.*

Joseph R. Podraza, Jr., Esquire
jpodraza@lambmcerlane.com
William H. Trask, Esquire
wtrask@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (direct)
(610) 430-8000 (main)

-and-

CLEARY, JOSEM & TRIGIANI, LLP

William T. Josem, Esquire

wtjosem@cjtllaw.org

325 Chestnut Street, Suite 200

Philadelphia, PA 19106

(215) 735-9099

*Counsel for Defendant, Local 98, International
Brotherhood of Electrical Workers*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION NO.
2:21-cv-00096

Hon. Gerald Austin McHugh

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION FOR
SANCTIONS AGAINST PLAINTIFF PURSUANT TO FED. R. CIV. P. 11**

Defendant, Local 98, International Brotherhood of Electrical Workers (“Local 98”), by and through its undersigned counsel, submits this Memorandum of Law in Support of Defendant’s Motion for Sanctions against Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor (“the Secretary”), for violating Federal Rule of Civil Procedure 11.

I. BACKGROUND

The Secretary filed the instant action to compel Local 98 to conduct new nomination proceedings, claiming the June 9, 2020 proceedings were tainted by intimidation and threats of retaliation by certain Local 98 members and officers to discourage the participation of three members in those proceedings. Local 98, in an effort to avoid the costs of litigation, initially offered to hold new nomination proceedings and, if necessary, an election, but only if the Secretary agreed to withdraw the specious intimidation claims. The Secretary declined to withdraw these claims and, on July 16, 2021, filed an Amended Complaint to ostensibly salvage

certain of the intimidation and retaliation claims previously dismissed by the Court.

The Secretary's Amended Complaint is predicated on the "statements" prepared by DOL investigators on behalf of two of the three supposed complainants. In drafting these purported statements, DOL investigators creatively mischaracterize the positions of the witnesses who have since testified to their inaccuracy. Although during discovery it has become clear the factual predicate for these claims is nonexistent, the Secretary and his attorneys persist in advancing these false claims of intimidation and retaliation and insist on engaging in further costly and unnecessary discovery. But by continuing to advocate claims otherwise repudiated by the very witnesses on whose behalf this action was purportedly filed, and by advocating factual contentions otherwise lacking any evidentiary support, the Secretary is in violation of Federal Rule of Civil Procedure No. 11, and his failure to withdraw this action upon notice from Local 98 warrants sanctions.¹

II. MOTION FOR SANCTIONS

As has become increasingly clear during this litigation, the Secretary's lawsuit was apparently never more than an attempt to exploit the personal grievances of one disaffected member to gain public notoriety, smear Local 98, and influence public opinion on the eve of its business manager's criminal trial. The facts relied upon to support the Secretary's Amended Complaint are derived solely from statements prepared by agents of the Secretary himself, in which dates and facts have been omitted and events rearranged to create the illusion of wrongdoing. Only in discovery have these witnesses, on whose behalf the "statements" were prepared, been afforded the opportunity to testify in their own words. And given that

¹ The Secretary was served with a copy of this motion on October 11, 2021 without the accompanying exhibits already in the possession of the Secretary. As of that date, Michael Coppinger's deposition transcript had not yet been completed. Page and line citations were added prior to filing with the Court once the transcript became available.

testimony—the only admissible evidence on which the Secretary may rely—there is no longer any question the Secretary has no factual basis from which to maintain this lawsuit. As such, given the Secretary’s refusal to withdraw the action despite having notice the factual contentions on which it is based lack any evidentiary support, sanctions are warranted for the willful violation of FRCP 11.

The Federal Rules of Civil Procedure provide in relevant part:

(b) Representations to Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needlessly increase in the cost of litigation;

(3) the factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery

Fed. R. Civ. P. 11(b)(1) and (3). If Rule 11(b) is violated, then Rule 11(c)(4) permits the Court to impose sanctions, including reasonable attorneys’ fees, expenses, or nonmonetary directives.

“[R]easonableness [under the circumstances is] defined as an objective knowledge or belief at the time of the filing of a challenged paper that the claim was well-grounded in law and fact.” *Ford Motor Co. v. Summit Motor Prods., Inc.*, 930 F.2d 277, 289 (3d Cir. 1991) (citations and internal quotations omitted). Attorneys are required to conduct a “normally competent level of legal research to support the[ir] presentation.” *Simmerman v. Corino*, 27 F.3d 58, 62 (3d Cir. 1994).

Importantly, Rule 11 expressly provides that “later advocating” a previously filed pleading once it becomes apparent the factual contentions therein lack evidentiary support also

triggers sanctions under the Rule. *See* Fed. R. Civ. P. 11, advisory committee note to 1993 amendments (noting the Rule’s emphasis on “the duty of candor by subjecting litigants to potential sanctions for insisting upon a position after it is no longer tenable.”); *see, e.g., Young v. Corbin*, 889 F. Supp. 582, 585 (N.D.N.Y. 1995) (Rule 11 prohibits advocating positions contained in signed pleadings after learning those positions no longer have merit.)

The Secretary’s action is predicated on the alleged intimidation of three union members: Michael Coppinger, Charles Battle, and Timothy McConnell. Because all three, as discussed in turn below, have now testified at deposition and confirmed facts on the record that dispel any potential evidentiary support for the Secretary’s contentions that intimidation occurred, or that intimidation of these three members affected the nomination proceedings, the Secretary’s ongoing advocacy of these claims violates Rule 11 and warrants the imposition of sanctions from this Court.

A. Michael Coppinger

The Secretary’s claim of intimidation as it relates to Member Michael Coppinger consists of an alleged threat relayed to Coppinger over the phone through a relative, Ed Coppinger, a retired former member of Local 98. (*See* Am. Compl., Dkt. No. 20, at ¶ 63.) The sole basis for this allegation are the statements of Battle and McConnell, in which each speculates, or heard from elsewhere, that Coppinger may have received a call from his uncle Ed at the behest of Business Manager John Dougherty, warning Michael Coppinger that he would be “finished” unless he abandoned running for office. (*See* Am. Compl., Dkt. No. 20 at Exs. 5 and 6.) These statements, Battle and McConnell have since confirmed, were prepared by DOL officials and are replete with inaccuracies and mischaracterizations. (*See, e.g.,* Ex. A, Battle Dep. at 110:11-13, 115:13-25, 126:18-24, 130:18-22; *see also* Ex. B, McConnell Dep. at 133:11-135:19; 144:20-

145:9; 146:7-148:5; 152:11-24; 155:18-156:9.) Notably, the Secretary never obtained or produced statements from either Michael or Ed Coppinger during the investigation or at any time before preparing the Amended Complaint, which is curious given the substance of that single phone call constitutes the sole basis for any claim against Local 98 vis-à-vis Michael Coppinger. (*See, e.g.*, Ex. C, Email dated August 6, 2021, 2:42 PM, confirming DOL obtained no statement from Coppinger.)

Fortunately, Michael Coppinger was deposed in this litigation. During that deposition, Coppinger testified that, although he briefly considered running for a position on the Executive Board, Coppinger decided a month prior to the June 9, 2020 nomination meeting that he would not run for any office due to health reasons, specifically a tumor discovered near his spine, painful diabetic ulcers on his feet, and the anxiety both these conditions were causing him. (Ex. D, Coppinger Dep. at 16:3-17:24.) Coppinger was prodded continuously during the course of his deposition to give some other reason, and he repeatedly confirmed that concern for his health was the only reason he decided not to get involved. (*Id.* at 24:7-8; 26:8-12; 27:13-15; 29:13-15; 30:1-3; 36:21-24; 37:16-19; 55:1-11.) Moreover, he testified his decision not to run for any office was made well before any of the alleged threatening communications recounted in the Secretary's Amended Complaint. (*Id.* at 23:19-23; 51:22-52;4.)

When confronted directly regarding the call from Ed Coppinger on the eve of the nomination meeting, Coppinger confirmed the call had nothing to do with his decision not to run. (Ex. D, Coppinger Dep. at 70:16-19.) As Coppinger explained: by the time of the call he had already decided for health reasons not to run (*Id.* at 68:16-19; 70:16-19.); Ed Coppinger was not even aware that Michael had ever considered running or nominating anyone for office (*Id.* at 90:12 – 91:4.); Ed Coppinger never threatened or relayed threats of retaliation should Michael

become involved in the election, nor did the two even discuss the election at all. (*Id.* at 70:3-4; 91:9-15; 110:24-111:4; 111:12-20.) In fact, Michael Coppinger confirmed the accuracy of Ed Coppinger’s own recollection of the call, which was memorialized in a sworn declaration that Michael Coppinger reviewed during the deposition. (*Id.* at 73:17-92:3.; *see also* Ex. E, Declaration of Ed Coppinger.) Given Coppinger himself has denied the truth of the Secretary’s allegations, there is simply no evidence to support the Secretary’s contention that Coppinger was intimidated or threatened.

Finally, in addition to the foregoing, Coppinger testified that he and his wife had founded an electrical contracting business, which had become a signatory contractor with Local 98 effective May 12, 2020. (Ex. D, Coppinger Dep. at 112:11-15; *see also* Ex. F, May 12, 2020 Letter of Assent between Coppinger Electric, LLC and IBEW Local 98.) Per the IBEW Constitution,

No [Local Union] shall allow any member who becomes an electrical employer, a partner in an electrical employing concern, a general manager, or other managerial position, to hold office in the L.U. or attend any of its meetings, or vote in any election of a L.U.

(IBEW Const. Art. XV, Sec. 5, pertinent portions of which are attached as Ex. G.) Furthermore, IBEW’s Basic Laws & Policies state,

No local union may allow any member who becomes an electrical employing concern, or a general manager or other managerial position, to hold office in the local union or attend any of its meetings or vote in any of its elections.”

(IBEW Basic Laws & Policies, “Member Eligibility to Vote and Hold Office,” pertinent portions of which are attached as Ex. H.) Thus, as of May 12, 2020—nearly a month before the June 9, 2020 nominating meeting—Michael Coppinger was considered an electrical employer doing business with Local 98 as a signatory contractor and was, as a result, categorically ineligible to run or nominate others for office, vote in any election, or even attend union meetings. (*See* Ex. I,

Declaration of Don Siegel.)

As Coppinger has made clear, notwithstanding the Secretary's unfounded contentions, as of June 9, 2020, Coppinger was not only prevented from participating solely due to his serious health issues, but he was also *ineligible* to participate in local union elections per the IBEW laws and Constitution, which flatly prohibited him from seeking office himself or nominating others. Simply stated, the Secretary's factual contention that Member Coppinger declined to run or nominate others for office because he was threatened and intimidated by Local 98 members and officials has no evidentiary support. By continuing to advocate this position, the Secretary is in violation of Rule 11 and should be subject to sanctions.

B. Charles Battle

The Secretary's claims of threats and intimidation as they pertain to Battle's unsuccessful nomination are similarly without evidentiary support. Despite allegations that Battle was intimidated from running, including by Member Robert Bark, a longtime friend who called and later visited Battle's home on the eve of the nomination, Battle nevertheless appeared for the meeting as instructed in the notice and began filling out the necessary nomination paperwork. (Am. Compl., Dkt. No. 20, at ¶¶ 26-34.) Battle even expressly denied that he felt intimidated at the June 9, 2020 nominating proceeding. (Ex. A, Battle Dep. at 274:19-22.) To the contrary, he claimed he was concerned about the unspecified "consequences" to other members if one of them were to nominate him for office. (*Id.* at 271:18-272:11, 276:7-13.) According to Battle, his irrational "concern" compelled him to reject offers by others to nominate him and to instead decided to walk away. (*Id.*) Nevertheless, despite these alleged, unspecified concerns, Battle failed to complete the actual nomination form himself. (Am. Compl., Dkt. No. 20, at ¶ 33; Ex. A, Battle Dep. at 278:20-279:2.) Battle now claims he was confused about whether he could

nominate himself for office. (Ex. A, Battle Dep. at 263:3-8, 266:24-267:3, 273:24-274:22.)

Admittedly, Battle never asked anyone for guidance, including Coppinger who understood self-nomination was permissible, and Battle left the Union Hall before the meeting even began. (*Id.* at 265:12-13, 304:16-305:6; *see also* Ex. D, Coppinger Dep. at 59:2-11; 102:11-13; 103:21-104:4; and Ex. K, IBEW Local Union Election Guide (confirming members' ability to self-nominate).)

Thus, unlike the Secretary's Amended Complaint, the record demonstrates Battle failed to be nominated for office, not because he was threatened or intimidated, and not due to any intimidation of Coppinger—who was himself ineligible and in too much pain to participate (*see* II.A., *supra*)—but because Battle failed to complete the same nomination form every other prospective nominee was provided and completed. Having Battle complete and submit the same form as everyone else is not an unreasonable requirement for nomination. *Accord Acosta v. Loc. 101, Transp. Workers Union of Am. AFL-CIO*, 339 F. Supp. 3d 80, 90 (E.D.N.Y. 2018) (disqualification of member for failure to comply with facially reasonable, uniformly imposed rule requiring member to complete letter of acceptance was reasonable.) And there is certainly no allegation—much less evidence—that Battle was prevented or discouraged from completing the form by any representative of Local 98. Likewise, Local 98 cannot be held responsible for Battle's failure to be nominated for office. The Secretary's contention that threats of reprisal caused Battle to withdraw himself from consideration are without evidence, unsupported even by the testimony of Battle himself. The Secretary's insistence on continuing to advocate this claim without any evidentiary support is a violation of Rule 11 and warrants sanctions.

C. Timothy McConnell

The allegations concerning Member McConnell are predicated on gross misrepresentations contained in his statement, which was prepared by DOL agents to

deliberately obscure the timeline and imply falsely that McConnell not only received numerous calls prior to deciding against running for office, but that statements attributed to Local 98 members were in relation to McConnell's decision to run for office, rather than McConnell's perceived association with a website created for the purpose of disparaging certain of Local 98's members and their families.

In both McConnell's statement and the Secretary's Amended Complaint—neither of which was prepared by McConnell himself—the Secretary alleges that McConnell notified Safety Director Mark Lynch by text message on June 8, 2020 that he was considering running for office. (Am. Compl., Dkt, No. 20 at ¶ 48, and Ex. 6 thereto at DOL_LOCAL 98_00421.1.) After recounting “four hours fielding non-stop phone calls” later that night and more calls received by McConnell throughout the following day, the Secretary states that McConnell texted Lynch again and advised Lynch of his decision not to run. (Am. Compl., Dkt, No. 20, Ex. 6 at 412.3.) Although both the statement and Amended Complaint, by omitting the date and time of McConnell's second text message to Lynch, give the impression McConnell's decision not to run came *after* receiving all these calls, in truth McConnell's second text to Lynch followed the first by approximately 90 minutes. (See Ex. J, McConnell Text Thread to Lynch.) McConnell confirmed the shorter, accurate timeline during his deposition. (Ex. B, McConnell Dep. at 55:10-19; 89:7-22.)

Thus, in reality, McConnell confirmed having a single phone conversation with Business Manager John Dougherty before notifying Lynch he had reconsidered running to avoid being associated with the offensive website Battle had created to tastelessly disparage other union members and officials. (Ex. B, McConnell Dep. at 91:1-14; *see also* Ex. J (“I'm 100% against what happened on that website and don't want to be tied in with that....”).) And regarding this

single call, the Secretary emphasizes two statements as proof of intimidation.

Regarding the first, McConnell testified that during the call, Dougherty became upset while discussing the website, which among other things disparaged Dougherty's wife and daughter, and perhaps suspecting McConnell's involvement with the website, Dougherty stated "If you're not with me, you're against me!" (Ex. B, McConnell Dep. at 91:1-92:21.) McConnell agreed during his deposition this comment may have been intended as commentary on McConnell's association with the despicable website, thereby having nothing to do with McConnell's recently considering a run for Executive Board. (*Id.*) The second statement relied upon by the Secretary is similarly ambiguous. McConnell recounts that Dougherty expressed "It'll be a long three years if you lose," which McConnell agreed may have referred to hardships resulting from electing ineffective leaders to the Executive Board. (Ex. B, McConnell Dep. at 107:16-23.) McConnell, in fact, was not sure what Dougherty meant, but confirmed he was never directly threatened. (*Id.* at 105:18-19.)

Finally, hoping the Court will draw an inference of retaliation, the Secretary alleges that a week after signing the statement the Secretary had prepared, McConnell was laid off from his job. (Am. Compl., Dkt. No. 20, at ¶ 60.) But if the Secretary was aware of that, the Secretary must have also been aware that the job on which McConnell was employed was coming to an end, and McConnell immediately transitioned to a new job without any loss of time or pay. (Ex. B, McConnell Dep at 183:10-184:22.) Even McConnell refused to connect his layoff to his criticisms of Local 98's leadership or passing electoral ambitions. And moreover, McConnell suffered no loss of work, reduction in pay, or other negative consequence that could possibly qualify as retaliation.

In sum, the Secretary bases the entire claim as it relates to McConnell on two admittedly

ambiguous statements coupled with the selective omission of certain facts to mischaracterize events preceding the nominations. As for evidence that supports the Secretary's contentions, there is none, and the Secretary's insistence on continuing to advocate this claim without any evidentiary support is a violation of Rule 11 and warrants sanctions.

III. Conclusion

For all the foregoing reasons, Defendant, Local 98, International Brotherhood of Electrical Workers respectfully requests that this Court grant Defendant's Motion against Plaintiff Martin J. Walsh, Secretary of Labor, award costs, including attorneys' fees, to the Defendant, and impose sanctions on Plaintiff for violating Federal Rule of Civil Procedure 11.

Respectfully submitted:

LAMB MCERLANE, PC

Dated: October 11, 2021

By: /s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esquire
jpodraza@lambmcerlane.com
William H. Trask, Esquire
wtrask@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (direct)
(610) 430-8000 (main)

-and-

CLEARY, JOSEM & TRIGIANI, LLP
William T. Josem, Esquire
wtjosem@cjtllaw.org
325 Chestnut Street, Suite 200
Philadelphia, PA 19106
(215) 735-9099

*Counsel for Defendant, Local 98, International
Brotherhood of Electrical Workers*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION No.
2:21-cv-00096

Hon. Gerald Austin McHugh

CERTIFICATE OF SERVICE

This is to certify that in this case a complete copy of the foregoing document was served upon the following counsel by email through the court's electronic filing system:

Lauren E. DeBruicker, Esquire
United States Attorney's Office
Eastern District of Pennsylvania
615 Chestnut Street, Ste 1250
Philadelphia, PA 19106
Lauren.debruicker@usdoj.gov

Attorney for Plaintiff

Dated: November 5, 2021

LAMB McERLANE PC

By: /s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esq. (PA 53612)
jpodraza@lambmcerlane.com
One South Broad Street, Suite 1500
Philadelphia, PA 19107
(215) 609-3170 (Direct)
(610) 430-8000 (Main)

Ex. B



Local Union No. 98

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

1701 Spring Garden Street
Philadelphia, Pennsylvania 19130

Phone: 215-563-5592
Fax: 215-561-2168

NOTICE OF NOMINATIONS AND ELECTION OF OFFICERS AND ELECTION BOARD OF IBEW LOCAL 98

May 18, 2020

Dear Brothers and Sisters:

We are writing to provide you with notice, as well as the details of the nomination procedures for the nomination of officers, and nomination and election of the Election Board, to be held at 1719 Spring Garden Street on Tuesday, June 9, 2020, as well as the election of officers, to be held on Saturday, July 11, 2020. The nomination of officers and the nomination and election of the Election Board, if needed, will be the only order of business on June 9.

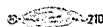
Due to the limitations placed upon us by the City of Philadelphia and Commonwealth of Pennsylvania, and to conform with CDC guidelines, strict protocols will be in place for the nomination meeting. The Union Hall and our surrounding property will be thoroughly cleaned and disinfected before the meeting, members will be required to wear masks to the meeting, admission of members to the meeting will be staggered to assure that social distancing is maintained and the meeting room will be set up so as to assure that all members can maintain a social distance of at least 6 feet at all times. Hand sanitizer will be available. Members should not congregate in the parking lot or on the sidewalks before or after the meeting. Members who have symptoms that may be related to COVID-19 (such as fever, cough, or shortness of breath) should not attend the meeting.

NOMINATION FOR ELECTION OF OFFICERS OF LOCAL 98 AND NOMINATION AND ELECTION OF ELECTION BOARD - nominations shall take place on June 9, 2020, beginning at 7:00 p.m. at the Union's offices at 1719 Spring Garden Street. Acknowledgments of willingness to be nominated for office must be received by the Union no later than 5:00 p.m. on June 9, 2020. Election of the Election Board, if required, will take place at the conclusion of the nominations. One (1) Election Judge and 4 tellers will be elected.

ELECTION OF LOCAL 98 OFFICERS – the election of Local 98 Officers shall take place on July 11, 2020 at 1719 Spring Garden Street, between the hours of 8:00 a.m. and 4:00 p.m. The officers to be elected are: Business Manager/Financial Secretary, President, Vice President, Recording Secretary, Treasurer, 5 Executive Board positions and 3 Examining Board positions. If you will be unable to visit the polls on election day, you may apply for an absentee ballot by writing to the Election Board at 1719 Spring Garden Street. Your application must be received by the Election Board between June 12 and July 6, 2020. Installation of officers will take place at the July 28, 2020 membership meeting. If needed, a run-off election will be held at the same times and at the same location on August 1, 2020.

ELIGIBILITY FOR OFFICE OR FOR ELECTION BOARD – no member shall be eligible for office or for the Election Board unless he/she has been a member of Local 98 in continuous good standing for at least two (2) years prior to June 9, 2020. No candidate for office will be eligible to serve on the Election Board.

Michael Masciulli, Recording Secretary



Ex. C

1 UNITED STATES DISTRICT COURT FOR THE
2 EASTERN DISTRICT OF PENNSYLVANIA
3)
4 MARTIN J. WALSH,)
5 SECRETARY OF LABOR,)
6 Plaintiff)
7 Civil Action No. 21-0096
8)
9 V.)
10)
11 VIRTUAL DEPOSITION OF
12 LOCAL 98, INTERNATIONAL)
13 BROTHERHOOD OF)
14 ELECTRICAL WORKERS)
15 Defendant)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

- - -

REPRODUCTION OF THIS TRANSCRIPT IS PROHIBITED
WITHOUT AUTHORIZATION FROM THE CERTIFYING
AGENCY

1 VIRTUAL DEPOSITION OF RANDY KIEFFER,
2 a Witness herein, called by the Plaintiff, for
3 examination, taken pursuant to the Federal
4 Rules of Civil Procedure, by and before
5 Jonathan MacDonald, a Court Reporter and a
6 notary public in and for the Commonwealth of
7 Pennsylvania, taken remotely via Zoom, on
8 Thursday, September 9, 2021, at 10:00 a.m.,
9 EDT.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES

2 On behalf of the Plaintiff:

3 LAUREN DeBRUICKER, ESQ.
4 ASSISTANT UNITED STATES ATTORNEY
5 615 CHESTNUT STREET
6 SUITE 1210
7 PHILADELPHIA, PA 19106
8 215-861-8492
9 Lauren.DeBruicker@usdoj.gov

7 On behalf of the Defendant:

8 JOSEPH R. PODRAZZA JR., ESQ.
9 LAMB McERLANE P.C.
10 ONE SOUTH BROAD STREET
11 SUITE 1500
12 PHILADELPHIA, PA 19107
13 215-609-3170
14 Jpodrazza@lambmcerlane.com

13 On behalf of Randy Kieffer:

14 ROBERT D. KURNICK, ESQ.
15 SHERMAN DUNN, P.C.
16 900 SEVENTH STREET, NW
17 SUITE 1000
18 WASHINGTON, DC 20001
19 202-785-9300

17 Also Present:

18 Anna Laura Bennett, Esq., U.S. Dept. of Labor

19 Joel Frank, Esq., Local 98

20 Will Trask, Esq., Local 98

21 Jon O'Neil, Esq., Local 98

22 Bill Josem, Esq., Local 98

23

24

25

1 I N D E X

2 WITNESS PAGE

3 Randy Kieffer

4 By Ms. DeBruicker 6

5 By Mr. Podrazza 146

6 By Mr. Kurnick 152

7

8 E X H I B I T S

9 EXHIBIT DESCRIPTION PAGE

10 1 Battle Nomination Form 41

11 2 Battle Internal

12 Election Protest 46

13 3 7/28/20 Kieffer Letter 52

14 4 Text Messages from

15 Bark to Battle 89

16 5 7/31/20 Decision 106

17 6 Emails Kieffer and

18 Welsh 7/22/20 109

19 7 7/24/202 Kieffer Letter 114

20 8 Kieffer Notes re

21 McConnell Interview 133

22 9 Emails Kieffer and

23 Welsh 6/23/20 147

24

25

1 P R O C E E D I N G S

2 THE REPORTER: The attorneys
3 participating in this deposition acknowledge
4 that I am not physically present in the
5 deposition room and that I will be reporting
6 this deposition remotely.

7 They further acknowledge that, in
8 lieu of an oath administered in person, the
9 witness will verbally declare her testimony in
10 this matter is under penalty of perjury.

11 The parties and their counsel
12 consent to this arrangement and waive any
13 objections to this manner of reporting. Please
14 indicate your agreement by stating your name
15 and your agreement on the record.

16 MS. DeBRUICKER: Lauren
17 DeBruicker, Assistant U.S. Attorney for the
18 Secretary of Labor, and I agree to the terms.

19 MR. KURNICK: Robert Kurnick,
20 attorney for the Deponent, Randy Kieffer, and I
21 agree.

22 MR. PODRAZZA: Joe Podrazza,
23 attorney for the Defendant, IBEW Local 98, and
24 I agree.

25 RANDY KIEFFER, a Witness

1 herein, having been first duly sworn, was
2 examined and testified as follows:

3 EXAMINATION

4 BY MS. DeBRUICKER:

5 Q. Good morning, Mr. Kieffer.

6 A. Good morning.

7 Q. Thank you for joining us today. My
8 name is Lauren DeBruicker. As you've heard,
9 I'm an Assistant U.S. Attorney, and I represent
10 the Secretary of Labor in a civil action the
11 Secretary has brought against Local 98 alleging
12 that it violated the Labor Management Reporting
13 and Disclosure Act of 1959, in connection with
14 its June election of officers.

15 Have you been deposed before?

16 A. Yes.

17 Q. About how many times have you had
18 your deposition taken?

19 A. Once.

20 Q. And in what context was that?

21 A. It was just an interview.

22 Q. Very good. We are doing this by
23 Zoom which provides some conveniences but also
24 some challenges. We have Mr. MacDonald here to
25 record your testimony and everything else

1 that's said here. Because we want him to have
2 a clear record, it's very important that we try
3 to speak one at a time. So it's important for
4 you to listen to my full question before you
5 answer it, and then I will do my best to listen
6 to your full answer before I ask my next
7 question; okay?

8 A. Okay.

9 Q. If at any point you don't understand
10 the question that I'm asking, will you let me
11 know?

12 A. I will.

13 Q. I'd be happy to clarify, I want to
14 be sure that you're clear on what I'm asking
15 before you answer. If at any time you don't
16 hear my question either because of my voice or
17 some technical issues, will you let me know
18 that as well?

19 A. I will.

20 Q. Very good. If you answer a
21 question, I will both assume that you heard it
22 and understood it; okay?

23 A. Yes.

24 Q. I understand you are represented by
25 counsel today; is that correct?

1 A. That is correct.

2 Q. And who is your counsel today?

3 A. Robert Kurnick.

4 Q. And did you do anything to prepare
5 for this deposition?

6 A. I spoke to Mr. Kurnick.

7 Q. Did you speak with anyone from
8 Local 98 to prepare for this deposition?

9 A. No, I did not.

10 Q. Did you look over any documents,
11 Mr. Kieffer?

12 A. Yes, I did.

13 Q. What documents were those?

14 A. My report, the filings, and some
15 other miscellaneous documents that I wrote that
16 had to do with this hearing.

17 Q. And when you say filings, what are
18 you referring to?

19 A. The filing of the suit, the actual
20 suit itself.

21 Q. Did you review any of the prior
22 testimony that's been given in this case?

23 A. I don't think so. No.

24 Q. Is there any reason why you wouldn't
25 be able to provide complete and truthful

1 testimony today?

2 A. No. There's no reason.

3 Q. For example, are there family or
4 life pressures that are distracting you?

5 A. Not at all.

6 Q. Any medications that affect your
7 ability to recall things clearly?

8 A. No. Just my age.

9 Q. Over the course of the morning, I
10 will probably be showing you some documents on
11 the screen. Are you able to see your screen
12 clearly so that we can do that?

13 A. Yes, I can.

14 Q. And as we do that, I'll count on you
15 to tell me if you need me to make something
16 bigger or to scroll down. I will look to you
17 for cues so you can get a full sense of the
18 document we're looking at; okay?

19 A. Okay. Very good.

20 Q. Where are you joining us from today?

21 A. My home.

22 Q. Where is that?

23 A. 9 Ridge Crest Drive, Fleetwood,
24 Pennsylvania.

25 Q. And is anyone with you today, in the

1 room with you today?

2 A. No.

3 Q. Did you bring anything with you
4 today?

5 A. My coffee cup and my phone and a
6 mouse.

7 Q. A computer mouse?

8 A. Yes.

9 Q. Required on the record.

10 Mr. Kieffer, can you give me just a
11 basic sense of your educational background?

12 A. High school graduate. I went
13 through the apprenticeship program with IBEW
14 Local Union 743. Did some courses through Penn
15 State and Reading Area Community College.
16 Never graduated from any college but did
17 courses.

18 Q. What kind of coursework did you
19 pursue?

20 A. I had electronic engineering
21 courses, some engineering courses. And I took
22 a Spanish course one time.

23 Q. I understand you are employed by the
24 International Brotherhood of Electrical Workers
25 Union; is that correct?

1 A. That is correct.

2 Q. What is your position there?

3 A. I am an international
4 representative.

5 Q. And how long have you been an
6 international representative?

7 A. 19 years and three months.

8 Q. And what are your general duties in
9 that position?

10 A. My general duties are to service
11 local unions that are given to me to service.
12 To do anything -- any other duties that Vice
13 President Welsh or President Stephenson call
14 upon me to do.

15 Q. Have you held other positions at
16 IBEW?

17 A. Yes, I did.

18 Q. Can you take me through them briefly
19 up to the point of you becoming a
20 representative?

21 A. Prior to being an international rep,
22 I was the business manager of Local Union 743
23 in Reading, Pennsylvania. I was also president
24 of Local 743 in Reading. I was also an
25 executive board member at 743 Reading, and I

1 was also an organizer at 743. And prior to
2 that, I worked in the field for contractors
3 doing electrical work.

4 Q. You had positions at Local 743?

5 A. Yes.

6 Q. Have you had other positions at the
7 international level besides being a
8 representative?

9 A. No, only a representative.

10 Q. When you say that you service local
11 unions, is there a set group of unions that
12 you're assigned to?

13 A. Yes. I have ten local unions.

14 Q. And how are they assigned to you?
15 Are they a geographic area?

16 A. They are assigned to me by President
17 Stephenson, IVP Welsh. They do tend to be
18 geographical, but they can assign any one of
19 them that they desire to me.

20 Q. When did you become a member of
21 Local 743?

22 A. That was November of 1982.

23 Q. Have you been a member of any other
24 locals?

25 A. No.

1 Q. In your role as representative, is
2 part of your job to investigate protests made
3 by members of the locals you are assigned to
4 service?

5 A. Yes.

6 Q. What kinds of protests?

7 A. Complaints, election protests.

8 Q. In addition to election protests,
9 are there other kinds that you investigate?

10 A. I can investigate mainly complaints,
11 member complaints.

12 Q. And can you give me a sense of what
13 kind of subject matters those complaints are?

14 A. Yeah. Anything to do with the
15 Collective Bargaining Agreement, the
16 constitution, referral issues, things like
17 that.

18 Q. And how do you get those matters to
19 investigate? Are they assigned to you?

20 A. They are assigned to me through the
21 Third District Office.

22 Q. I'm sorry. Through what district
23 office?

24 A. Through the IBEW Third District
25 Office. The International Vice President

1 Welsh's office. But I can get them through the
2 international office in Washington, if
3 President Stephenson has a special assignment.

4 Q. Are you assigned to investigate
5 protests only from the locals that you are
6 assigned to service or can you get them from
7 anywhere?

8 A. Most of the time. Sometimes I do
9 have special assignments to do, to go into
10 other local unions that I do not -- that I'm
11 not normally assigned to for certain
12 assignments.

13 Q. So for about how many locals do you
14 investigate?

15 A. I have ten locals.

16 Q. Do you investigate election protests
17 for other bodies within the union, like at the
18 district level or international level?

19 A. I'm not sure what that question -- I
20 investigate, and I report to the district
21 office my findings.

22 Q. Do all the protests come from the
23 local level to you?

24 A. Come through the Third District
25 Office to me, yes.

1 Q. And does anyone else share those
2 duties with you or are you the guy for those
3 locals assigned to you?

4 A. I'm, basically, the guy.

5 Q. And how often would you say you're
6 assigned to investigate protests?

7 A. In my 20 years, probably eight
8 times, I guess.

9 Q. And about how many of those were
10 election protests?

11 A. That's what I'm talking about, eight
12 times. Complaint letters, honestly, I could
13 get them on a weekly basis.

14 Q. We're here to discuss an election
15 protest made by Charles Battle. We'll get to
16 that in a minute. But aside from that election
17 protest from Mr. Battle, had you previously
18 been assigned to investigate any election
19 protest relating to Local 98?

20 A. I was assigned for a protest that
21 was sent by a member named Rocks. I think that
22 was back in, I would guess, 2015. I don't have
23 my notes. I'm not sure of that date.

24 Q. Understood. Do you recall whether
25 that was a pre-election protest or a

1 post-election protest?

2 A. I believe that was a pre-election
3 protest.

4 Q. Do you recall, basically, the
5 subject matter on that?

6 A. The subject matter was eligibility
7 of a candidate.

8 Q. What was the resolution of that
9 protest?

10 A. This resolution was the candidate
11 was allowed to run as a candidate -- or, the
12 nominee was allowed to run as a candidate.

13 Q. And do you know whether that was a
14 resolution by the local or whether that was a
15 resolution by the international organization?

16 A. I believe it was agreed upon by the
17 local union.

18 Q. Did you conduct a full investigation
19 of that protest?

20 A. No.

21 Q. Was that because it was resolved?

22 A. It was resolved during the
23 discussions.

24 Q. Do you recall whether you had a
25 chance to meet Mr. Rocks at all in connection

1 with the protest?

2 A. I did not meet him, but I did speak
3 to him.

4 Q. When you evaluate a local election
5 protest, what is it that you're looking for?

6 A. I'm looking for compliance with the
7 IBEW constitution, basic laws and policies of
8 the IBEW, and the local union's bylaws.

9 Q. Do you look for any violations of
10 the LMRDA?

11 A. Yes, I do. That's contained within
12 our booklets for the IBEW. Our basic laws and
13 policies has all of the structure of the LMRDA
14 within it.

15 Q. What happens if the international
16 finds a protest to be valid or that a violation
17 may have occurred?

18 A. The international vice president
19 writes a recommendation on how to move forward.

20 Q. And who is the recommendation made
21 to?

22 A. The recommendation is sent to
23 everyone, including, I believe, President
24 Stephenson who is, virtually, the person we all
25 report to.

1 Q. And moving forward from there, is
2 something -- is there a directive issued to the
3 local?

4 A. Yes, there could be.

5 Q. Does the direction sometimes include
6 rerunning an election?

7 A. Yes.

8 Q. Are there other kinds of corrective
9 measures that the international would direct
10 for an election protest?

11 A. Offhand, I couldn't think of that.
12 It's usually either rerun or not.

13 Q. In the event that a violation is
14 found, who decides what the appropriate remedy
15 is?

16 A. The international vice president.

17 Q. So when you get assigned an election
18 protest, how do you go about investigating?

19 A. The very first thing I do is call
20 the person that wrote the letter that's
21 protesting the election. And I walk it
22 backwards from there, whoever it may be. You
23 know, whoever's in the letter, I contact them.

24 Q. Is there any sort of process or
25 procedure that the international has for

1 investigating election protests?

2 A. We have election guides that guide
3 us through the elections. Again, what I do is
4 start with the letter and walk backwards
5 through the guides and the constitution.

6 Q. How do you decide who it is you want
7 to speak to you when you're investigating?

8 A. I decide that. That's one of my
9 responsibilities -- because at the end result,
10 I have to give a report to the international
11 vice president of my finding.

12 Q. So it's up to you to decide who to
13 speak to, who you want information from; is
14 that fair to say?

15 A. That is correct.

16 Q. Is there anyone who you must talk to
17 in your investigation of an election protest?

18 A. No.

19 Q. In your investigation of election
20 protests, is there a certain -- I'm a lawyer,
21 so I'll call it -- a certain burden of proof
22 that a protest has to meet in order to be
23 determined valid?

24 A. If the election was run through the
25 proper guidelines of the constitution, bylaws,

1 and the LMRDA.

2 Q. And is there a certain -- again, I'm
3 using lawyer speak, so forgive me. Is there a
4 sort of standard of proof? Does it have to be
5 beyond a reasonable doubt that a violation
6 happened?

7 A. No.

8 Q. Or more likely than not that a
9 violation happened?

10 A. I think it's more of if a violation
11 happened or not. And it could be as simple as
12 yes or no.

13 Q. Is there a certain factual threshold
14 that has to be met? Does there have to be a
15 certain level of proof?

16 A. No, I don't think so.

17 Q. And are there any kind of
18 presumptions that are in place when you're
19 evaluating an election protest? In the
20 criminal world --

21 A. I'm sorry. You froze there.

22 Q. Are there any sort of presumptions
23 that apply in your analysis -- in your
24 investigation of a protest? For example, in
25 the criminal world, someone is innocent until

1 proven guilty. So if the government stops you,
2 they have to prove there's a violation.

3 A. No, there are no presumptions. It's
4 a fact-finding report.

5 Q. When you investigate a local
6 election protest, what is your relationship to
7 the local?

8 A. I'm their service rep.

9 Q. Do you consider yourself kind of a
10 prosecutor of the protest or a defender against
11 the protest?

12 A. I think I'm just a fact finder of
13 the protest.

14 Q. Would you consider yourself a
15 neutral factfinder?

16 A. Absolutely.

17 Q. And when you investigate a local
18 election protest, what is the local's role, if
19 any, in that investigation?

20 A. It could be interviews, it could be
21 the chairman interviewed and nominee -- it
22 could be a multitude of people interviewed.

23 Q. Are there certain obligations that a
24 local has in connection with the investigation
25 other than responding to your inquiries?

1 A. I don't think there's an official,
2 they have to, but I am their service rep. I
3 certainly expect them to cooperate.

4 Q. In the investigation of the local
5 election protest, does the local have any kind
6 of burden to disprove that any violation
7 happened?

8 A. I'm not quite sure about that
9 question.

10 Q. Is there a certain showing that a
11 local must make in order to defeat an election
12 protest?

13 A. The showing is if they properly
14 conducted the election.

15 Q. So a couple of questions about what
16 authority governs union elections, but I think
17 you've touched on a couple of them already. I
18 think that you mentioned that the IBEW
19 constitution is one of the things that covers
20 officer elections?

21 A. Yes.

22 Q. I've seen something called the IBEW
23 basic laws and policies. Is that something
24 you're familiar with?

25 A. Yes. I am very familiar with it.

1 Q. Do those govern elections as well?

2 A. Yes.

3 Q. Does IBEW view its basic laws and
4 policies as a binding document in that locals
5 have to follow them?

6 A. Yeah. There are excerpts from the
7 constitution and explanations of the
8 constitution, I believe. Yes.

9 Q. I've also seen reference to an IBEW
10 local union election guide. Is that something
11 you're familiar with?

12 A. Yes, I am.

13 Q. And are those binding rules as well
14 or are they more sort of guidelines?

15 A. I think there is some flexibility
16 within that guide on how to do certain things.
17 But, basically, it's a walkthrough of how to
18 properly conduct an election at the IBEW and
19 also conforms with the LMRDA.

20 Q. Is the local Union election guide
21 something that the local unions are expected to
22 follow?

23 A. I think there's certain flexibility
24 within the document. But the document as a
25 whole, yes, they should follow it.

1 Q. And if a member is looking to
2 determine what the election rules are, is the
3 local union election guide something they could
4 look to?

5 A. I believe they could, yeah. Sure.
6 It's, basically, designed to have the person
7 running the election follow it.

8 Q. And I imagine local chapters have
9 their own bylaws?

10 A. That is correct.

11 Q. And do some of those deal with
12 elections?

13 A. All of them deal with the elections.

14 Q. Am I correct in my understanding
15 that locals can create their own bylaws but
16 those bylaws have to comply with the IBEW
17 constitution and rules?

18 A. That is correct.

19 Q. Are you familiar with the LMRDA?

20 A. Pretty familiar.

21 Q. This suit is focusing on
22 Section 401(e) of the LMRDA which provides that
23 member must be given a reasonable opportunity
24 to nominate candidates. Is that your
25 understanding of the LMRDA's requirement?

1 A. Yes.

2 Q. And that members in good standing
3 should be able to run for office if they meet
4 the union's reasonable qualifications?

5 A. Correct.

6 Q. And that members have the right to
7 vote for or support the candidates of their
8 choice without being subject to penalty,
9 discipline or improper interference or reprisal
10 of any kind.

11 Are you familiar with that
12 provision?

13 A. Yes, I am.

14 Q. Just so I'm clear, are local
15 election protests evaluated pursuant to these
16 terms?

17 A. I'm sorry. You froze again.

18 Q. Are local election protests
19 evaluated in accordance with those terms of the
20 LMRDA?

21 A. Yes, they are.

22 Q. I'd like to show you -- I'm trying
23 to share my screen. We'll see how that works.
24 Mr. Kieffer, are you able to see what's on my
25 screen?

1 A. Yes, I do.

2 Q. And do you recognize that document?

3 A. I sure do. That's the IBEW
4 constitution.

5 Q. That's the one you were referring to
6 in the beginning?

7 A. Yes.

8 Q. I'm going to take you to -- this is
9 Article 16, at the top of the page here is
10 Section 10; do you see that?

11 A. Yes.

12 Q. And it says, no member shall be
13 nominated for office unless he is present or
14 signifies his willingness in writing.

15 Is that your understanding, that, to
16 be nominated, a member has to signify his
17 willingness either in writing or is present at
18 the meeting?

19 A. First of all, I want to clarify that
20 the interpretation of the constitution is by
21 the international president only. But I will
22 give you my thought on that.

23 Q. Fair enough.

24 A. Yes. If you are not at the meeting
25 to get nominated, you should express your

1 willingness in writing that you want to run.

2 Q. Do you understand that to be an
3 either/or thing, you can be present or you can
4 do so in writing?

5 A. Normally, yes.

6 Q. When you say normally, are there
7 other circumstances?

8 A. The circumstances we had this year,
9 because of COVID and the CDC guidelines, every
10 election in the past two years had different
11 caveats to it than before.

12 Q. We'll talk a little bit more about
13 that. While I have you here, I'm going to take
14 you down to Section 11, which reads, the LU --
15 what does LU stand for, do you know?

16 A. Local union.

17 Q. So the local union shall decide the
18 manner in which the nominations and elections
19 shall be held and such will be stated in the
20 Local Union bylaws. This shall not conflict
21 with the IBEW constitution.

22 Did I read that correctly?

23 A. Yes.

24 Q. Okay. And, again, we touched a
25 little on this. Locals can run their own

1 elections as long as they don't conflict with
2 the international's constitution?

3 A. Yes.

4 Q. This is basic laws and policies. Is
5 that one of the documents you spoke about
6 earlier?

7 A. Yes.

8 Q. So this document has a section on
9 member nomination and voting eligibility; do
10 you see that?

11 A. Yes.

12 Q. Again, member must be present or
13 signify in writing a willingness to be a
14 candidate to being nominated to a local union
15 office. Is that consistent with the
16 constitution we just read?

17 A. Yes, it is.

18 Q. This is a copy that I have of the
19 IBEW U.S. Local Union Election Guide. Is that
20 the one you were referring to when we were
21 speaking a few minutes ago?

22 A. Yes.

23 Q. Under nominations, the second
24 paragraph, again, no member shall be nominated
25 for office unless he or she is present or

1 signifies his or her willingness in writing.

2 Same provision, basically?

3 A. Yes.

4 Q. It then goes on to say, written
5 acceptance of a nomination must be presented at
6 the meeting where nominations are held.

7 Do you have an understanding of what
8 that means?

9 A. Yes, I do.

10 Q. What's your understanding?

11 A. My understanding most of the time
12 is, if a person is nominated, you cannot
13 nominate a person who is not there in the room
14 or does not have a letter of acceptance.

15 Q. And I see the next sentence reads,
16 members who are not in attendance can make or
17 accept nominations by written letter.

18 Is that consistent with your
19 understanding?

20 A. Yes.

21 Q. So I read this to mean that a member
22 does not need to be present to be nominated; am
23 I correct in that?

24 A. Correct.

25 Q. Just a little bit further down, the

1 paragraph reads, a single notice shall be used
2 for notification of both nominations and
3 elections. The notice shall state the
4 following.

5 There are a number of things the
6 notice needs to provide, including this third
7 bullet here, the proper form and manner for
8 nominations; do you see that?

9 A. Yes.

10 Q. And what's your understanding of
11 what the proper form and manner for nominations
12 is?

13 A. If there's -- how to be nominated.

14 Q. The elections guide does have an
15 example notice. And I understand the foregoing
16 is intended to serve only as an example of the
17 required notice.

18 So is it your understanding that
19 this is the guidance but not binding?

20 A. Yes, that is correct.

21 Q. So under the provisions that we've
22 just gone through, through the constitution and
23 the laws and policies, under these terms, is
24 there anything that prohibits a member from
25 nominating him or herself?

1 A. No. Unless it's stated in their
2 bylaws.

3 Q. Would such a bylaw be consistent
4 with the IBEW constitution and rules?

5 A. I don't -- I'm not sure about that.
6 I believe it could be, but I don't have any
7 that have that.

8 Q. None come to mind. Under the terms
9 we just read through, is there anything
10 requiring that nominations be seconded?

11 A. No.

12 Q. Again, just for clarity, under these
13 terms, is there anything requiring that
14 nominations be made in person?

15 A. No.

16 Q. Setting aside any particular local
17 bylaws, how can a member of an IBEW local be
18 nominated for a local union office?

19 A. Again, taking bylaws out of it,
20 normally, you go to a nomination meeting.
21 Someone nominates you or you can nominate
22 yourself, and putting your name in the
23 nominations, you become a candidate.

24 If you're not there, you can send a
25 letter to the chair for the chair to read.

1 After they read the letter, your name is, if
2 you're nominating yourself, someone nominates
3 you, and you're not there, you give the letter
4 to the chair accepting the nomination.

5 Q. So if you're not present, you can do
6 it writing; correct?

7 A. That is correct.

8 Q. Other than that, does the IBEW
9 constitution specify the manner in which local
10 officer nominations must be held?

11 A. There's guidelines in the IBEW
12 constitution that have to be followed. But
13 each individual local can have different
14 procedures in their bylaws if their bylaws are
15 approved.

16 Q. And the IBEW constitution delegates
17 that to the local?

18 A. The IBEW constitution delegates
19 everything.

20 Q. And the local is required to state,
21 in its bylaws, the manner in which its officer
22 nominations shall be held?

23 A. Yes.

24 Q. And the IBEW constitution specifies
25 that what's provided in the bylaws of the local

1 can't conflict with the IBEW constitution;
2 correct?

3 A. Correct.

4 Q. If a local had in its bylaws that
5 nominations had to be made in person, by a
6 person present at the meeting, would you
7 consider that to be contrary to the IBEW's
8 rules?

9 MR. KURNICK: I have to object
10 to that question because it calls for
11 speculation. Having said that, Randy, you can
12 answer.

13 THE WITNESS: No. I'd object.

14 BY MS. DeBRUICKER:

15 Q. He objected, but you can still
16 answer. Do you still have the question in your
17 mind or shall I repeat it?

18 A. No. I have the question. The
19 bylaws would have to be approved first, so we
20 would never get to that point. The bylaws
21 would have to be approved, and if they were
22 approved, then it would delegate. But that's a
23 different procedure. That's bylaws approval.

24 Q. Right. If a local submitted bylaws
25 for approval that required nominations to be

1 made in person, do you think that those bylaws
2 would be approved?

3 MR. KURNICK: Same objection.

4 MR. PODRAZZA: I would also
5 join in that objection and move to strike.

6 MR. KURNICK: And even though
7 I object, unfortunately, you have to answer.

8 THE WITNESS: Listen,
9 everybody's got to know that I listen to
10 whatever Bob says. The worst thing you can do
11 is not listen to your attorney.

12 MR. KURNICK: What a great
13 client.

14 THE WITNESS: Could you repeat
15 the question? I'm sorry.

16 BY MS. DeBRUICKER:

17 Q. Sure. Would a local's bylaw
18 requiring that nominations be made in person,
19 would that be contrary to IBEW rules and
20 constitution?

21 A. It could be. I would have to
22 investigate through the IBEW constitution. And
23 we also have pattern bylaws. We have what's
24 called pattern bylaws that allow flexibility
25 within your bylaws, but you have to structure

1 your bylaws to our pattern bylaws. So I would
2 have to see if that conforms to the pattern
3 bylaws and the constitution. And I make that
4 decision here without investigating.

5 Q. In the course of your investigation
6 of Mr. Battle's election protest, did you have
7 an opportunity to look at Local 98's bylaws?

8 A. I have.

9 Q. Take you to -- this is Article 3 of
10 Local 98's bylaws, Section 4A. At the meeting
11 of the local union when nominations are made,
12 after nominations have closed, the local union,
13 by the majority of members present, shall elect
14 an election judge and as many tellers as are
15 required who shall serve as an election board
16 to conduct to the elections. No candidate for
17 any office shall be eligible to serve on this
18 board.

19 Do you see that?

20 A. Yes.

21 Q. And the following section, Section
22 4B, after nominations have been made and those
23 nominated are found to be qualified, the
24 election board shall have ballots prepared
25 listing, in alphabetical order, the names of

1 all candidates for each respective office
2 beginning with the president and continuing in
3 the order named in the IBEW constitution. Such
4 ballots shall not contain any identifying
5 numbers or marks which would identify the
6 voter.

7 Those are about the only provisions
8 that I've seen about the process for
9 nominations. Do you recall seeing any others?

10 A. Offhand, no.

11 Q. From your reading of these
12 provisions, what was your understanding of the
13 manner in which Local 98 conducts its
14 nominations?

15 A. Local 98 normally does nominations
16 through meetings and the requirements of the
17 CDC and the requirements of the City of
18 Philadelphia. They had to restructure their
19 normal nomination procedure.

20 Q. The provisions as written here,
21 setting aside any sort of COVID special
22 measures, do you understand these provisions,
23 as written, to be consistent with IBEW's
24 constitution?

25 A. Yes.

1 Q. Now, you've mentioned the way that
2 COVID impacted elections in 2020, as it has
3 impacted just about everything else. In 2020,
4 was there a requirement that nomination
5 meetings be in person?

6 A. President Stephenson sent a letter
7 out to all local unions that were having
8 elections giving the executive board authority
9 to design a safe nomination procedure in their
10 local union.

11 Q. Did you see that letter?

12 A. From President Stephenson, yes.

13 Q. I'm going to show you a letter dated
14 March 19, 2020, that's signed by International
15 President Lonnie Stephenson. Would you
16 recognize this as that letter?

17 A. Yes.

18 Q. Do you know whether it was IBEW's
19 intention to minimize in-person proceedings in
20 2020?

21 A. No. I think it was our intention
22 just to be as safe as possible through our
23 normal business practices.

24 Q. Is it your understanding that
25 nominations could be conducted by mail?

1 A. I believe so, with -- contained in
2 that letter, yes.

3 Q. Like dropping the nomination forms
4 off at the union hall?

5 A. If the executive board designed it
6 that way, yes.

7 Q. Could the nominations be conducted
8 by conference call?

9 MR. KURNICK: I really have to
10 object to these questions. He's identified the
11 letter, but you're asking him now to speculate
12 on what the international president's view
13 would be about what's permissible and what
14 isn't. Again, you're asking him to speculate
15 about something he doesn't know.

16 MS. DeBRUICKER: I'm asking
17 him about his understanding about what was
18 permitted in 2020.

19 THE WITNESS: My understanding
20 is what was permitted is, President Stephenson
21 gave the executive board of each local union
22 the authority to design a safe nomination
23 procedure.

24 BY MS. DeBRUICKER:

25 Q. Getting back to a person signifying

1 their willingness to run in writing. Under the
2 IBEW constitution, would completing -- let me
3 back up.

4 In the course of your investigation,
5 did you have an opportunity to review the
6 nomination slips that Local 98 used in its
7 June 2020 election?

8 A. No, I did not.

9 Q. Did you have an opportunity to see a
10 blank one of those nomination slips?

11 A. Yes, I did.

12 Q. Under the IBEW constitution, would
13 completing that kind of nomination slip be
14 sufficient to be considered a self-nomination?

15 A. If filled out correctly, I believe
16 it would.

17 Q. I understand the Department of Labor
18 may have interviewed you in the course of its
19 investigation of a complaint filed with them by
20 Mr. Battle. Do you recall being interviewed by
21 the Department of Labor?

22 A. Yes.

23 Q. Do you know whether IVP Welsh was
24 also interviewed by DOL?

25 A. I do not, no.

1 Q. You were not present for any
2 interview of Mr. Welsh?

3 A. I believe my interview was with Bob
4 Kurnick and Mike Clausenack (phonetic), I
5 believe.

6 Q. I'll represent that in his interview
7 with DOL, IVP Welsh represented that the IBEW
8 constitution provisioned that no member shall
9 be nominated unless he is present or signifies
10 his willingness in writing meant that
11 completing a nomination form would be
12 sufficient for a self-nomination.

13 MR. PODRAZZA: I'll object to
14 the representation because as I understand it,
15 there's no signed statement that was adopted by
16 the vice president at any time.

17 And what counsel is conveying at
18 this point were representations made by DOL
19 representatives with an interest in the case.

20 MS. DeBRUICKER: You can
21 answer the question, Mr. Kieffer.

22 MR. PODRAZZA: Same objection.
23 Move to strike.

24 THE WITNESS: Am I supposed to
25 answer a question? I'm sorry.

1 BY MS. DeBRUICKER:

2 Q. Actually, I didn't even ask a
3 question. I was representing that IVP Welsh
4 represented to the Department of Labor that
5 completing a nomination form would be a
6 sufficient self-nomination under the IBEW
7 constitution. Would you have a reason to
8 disagree with that?

9 A. No.

10 Q. I'm going to show you what we will
11 mark as Kieffer No. 1.

12 (Deposition Exhibit No. 1 was
13 marked for identification.)

14 Q. And, Mr. Kieffer, I understand that
15 you reviewed a blank nomination slip. Is this
16 consistent with the blank nomination slip that
17 you reviewed, absent the writing on it?

18 A. Yes.

19 Q. I'll represent that this is a
20 nomination form that was produced to DOL by the
21 union and was completed by Charles Battle.

22 Would you -- in your understanding
23 of IBEW's constitution and bylaws, is it -- in
24 your judgement, does this form function as a
25 self-nomination?

1 MR. KURNICK: Again, I have to
2 object because you're asking -- you're not
3 asking him for facts, you're asking him about
4 resolution of issues that are not normally left
5 to an international representative. You're
6 asking him to speculate on what the vice
7 president's view would be and what the
8 international president's view would be.

9 MS. DeBRUICKER: My question
10 was in his judgment, would this be a sufficient
11 self-nomination.

12 THE WITNESS: The form is --

13 MR. KURNICK: Before you
14 answer, Randy, let me just say that when you
15 ask it that way, you're making the assumption
16 that he's the one who makes these judgements.
17 And so it assumes a fact that's not in
18 evidence.

19 All right. Having said that, Randy,
20 please go ahead and answer.

21 THE WITNESS: I'm not sure. I
22 would have to investigate further.

23 BY MS. DeBRUICKER:

24 Q. What would you have to investigate?

25 A. I would have to look at the form and

1 see how it's filled out.

2 Q. Well, if you take a look at this --
3 and I recognize you didn't have a chance to do
4 this in your investigation, but in your
5 judgment and based on your knowledge of these
6 things, is there anything missing from this
7 form that you think would be required in order
8 for it to be a self-nomination?

9 MR. KURNICK: Same objection.

10 THE WITNESS: I don't decide
11 that. The international vice president or the
12 international president would decide if that
13 form was filled out correctly. I would report
14 it.

15 BY MS. DeBRUICKER:

16 Q. What do you mean you would report
17 it?

18 A. I would show -- if I had that form,
19 I would show them that form with my report.
20 And they would be the deciding factor if that
21 nomination form was valid or not.

22 Q. Is there anything that strikes you
23 as insufficient about this form?

24 A. Again, I wouldn't be the one
25 deciding.

1 Q. I'm just asking what your impression
2 is.

3 MR. KURNICK: Same objection.

4 THE WITNESS: There's no
5 nominator on the form. And that is just my
6 opinion, looking at it for five minutes.

7 BY MS. DeBRUICKER:

8 Q. If a person were to self-nominate,
9 would you expect to see that portion filled
10 out?

11 A. Again, I'm not speaking for anyone
12 but me, but, yeah, I would, yes.

13 Q. In your review of internal election
14 protests, do you make recommendations to the
15 IVP?

16 A. I do sometimes, yes.

17 Q. What would your recommendation be
18 regarding this form?

19 MR. KURNICK: Objection.

20 Calls for speculation on the part of the
21 witness. And, Randy, please answer.

22 THE WITNESS: Okay. I don't
23 think I would recommend anything on this. I
24 would let the vice president use his judgement
25 or the international president use his judgment

1 or, as a matter of fact, our fine legal
2 counsel.

3 BY MS. DeBRUICKER:

4 Q. Are there certain matters that you
5 do refer to counsel as opposed to anywhere
6 else?

7 A. Yes. I know Bob pretty good.

8 Q. Are there certain kinds of things
9 where you go, oh, this is a Bob question?

10 A. There are certain kinds of things
11 that I ask because I'm not an attorney, not on
12 this particular issue but on just other issues.
13 I don't use him very, very much but -- we're
14 grateful to have him.

15 MR. KURNICK: Ms. DeBruicker,
16 you're getting awfully close to inquiring about
17 matters that are privileged. So please don't
18 step over that line.

19 MS. DeBRUICKER: I have no
20 intention of stepping over that line.

21 BY MS. DeBRUICKER:

22 Q. At some point, did you receive a
23 local election protest relating to Local 98's
24 June 2020 election?

25 A. The 3rd District Office received a

1 protest, yes.

2 Q. Was the protest from Charles Battle?

3 A. Yes.

4 Q. Would you recognize this as the
5 internal election protest that Mr. Battle
6 submitted?

7 A. Yes.

8 Q. I'm just going to scroll down as an
9 overview. There are a few pages of the letter
10 and there are some attachments. Do you recall
11 there being attachments to Mr. Battle's
12 protest?

13 A. Yes, I do.

14 Q. And did you review those
15 attachments?

16 A. Yes, I did.

17 Q. And we'll mark this as Kieffer
18 No. 2.

19 MR. PODRAZZA: Counsel, is
20 Kieffer No. 2 the entire document or just what
21 you're showing on the screen?

22 MS. DeBRUICKER: We will mark
23 the entire document as Kieffer No. 2.

24 (Deposition Exhibit No. 2 was
25 marked for identification.)

1 BY MS. DeBRUICKER:

2 Q. Did you determine that Mr. Battle's
3 protest was timely?

4 A. Yes, we did.

5 Q. Did you determine that the protest
6 was properly made, and that it wasn't missing
7 anything you needed in order to investigate?

8 A. The protest doesn't have any
9 structure to it.

10 Q. And you described earlier, sort of,
11 generally, your process of evaluating a local
12 election protest. Did you take any different
13 approach here?

14 A. No. Normal approach.

15 Q. Do you recall who you talked to in
16 connection with investigating this protest?

17 A. It took me about two weeks to track
18 down Charles Battle. He didn't give me a phone
19 number, he gave me an email address. I went
20 through the international to try to find out
21 who he was, went through the local to try to
22 find the phone number. I had several phone
23 numbers. And when I contacted him, he said he
24 was going to have surgery, and he would call me
25 in a week. There was a little time spent

1 there, and I did get a correct number and
2 Charles and I talked.

3 Q. Do you recall speaking with anyone
4 else regarding Mr. Battle's protest?

5 A. At first, no. It was with Charles.

6 Q. Do you recall there being anybody
7 you wanted to talk to about Mr. Battle's
8 protest but didn't?

9 A. Excuse me? I didn't hear that.

10 Q. Do you recall there being anybody
11 that you wanted to talk to about Mr. Battle's
12 protest but did not?

13 A. I did my normal -- I talked to
14 Charles Battle, I talked to the president of
15 Local 98, I talked to counsel, Tara Chupka,
16 down there. Through this process, I just
17 wanted to point out the interview, how they did
18 it, because I was not at the nomination
19 process.

20 So after talking to Charles at
21 extent, I went out from there and went out to
22 start investigating what actually happened.

23 Q. What was your understanding of the
24 crux of Mr. Battle's protest?

25 A. Charles Battle believed -- let me

1 back up.

2 Charles Battle went to the
3 nomination meeting, and I'm quoting him, again,
4 I was not there.

5 He told me he went to the meeting
6 with the understanding that there were two
7 other members, one member that was going to
8 nominate him, one member that was going to
9 second the nomination, and he was going to run
10 for president. And when he got to the meeting,
11 the two that were going to assist him in his
12 nomination, the two members said they were not
13 going to assist him.

14 And it got to that point that
15 Charles, I believe, got confused, thought he
16 needed these two people to do nominations.
17 Through my interview and my notes, which you
18 probably read, he thought he could
19 self-nominate, but he was not completely sure
20 if he could. And he was in a quandary of what
21 to do.

22 Q. Did he indicate why the people
23 nominating and seconding his nomination would
24 not go through with it?

25 A. He told me they were -- they just

1 didn't want to be a part of it. They were
2 afraid of maybe reprisal or something.

3 Q. Was that kind of fear of reprisal
4 something that was of concern to you?

5 A. No. I find that a lot of times,
6 people talk about they are going to do certain
7 things, but when the time comes, they don't,
8 they back out. It happens a lot in elections.
9 I certainly took it under consideration and
10 reviewed it afterwards.

11 Q. Had Mr. Battle -- because of fear of
12 reprisal, would that have been a violation of
13 the IBEW rules?

14 A. I'm sorry. I didn't hear you.
15 Pardon me.

16 Q. If Mr. Battle's nominators did not
17 nominate out of fear of reprisal, would IBEW
18 consider that a violation of union laws?

19 MR. KURNICK: Again, it calls
20 for speculation on the part of the witness.

21 THE WITNESS: Yeah. That's
22 very speculative. Is it their own fear, is it
23 true fear? I can't even speculate on it.

24 BY MS. DeBRUICKER:

25 Q. Would IBEW consider threats of

1 reprisal a violation of its union rules?

2 MR. KURNICK: I'm sorry, but I
3 have the same objection.

4 BY MS. DeBRUICKER:

5 Q. Give me your understanding,
6 Mr. Kieffer.

7 A. If it was true reprisal and not just
8 a thought, they may have.

9 Q. Would a threat of reprisal
10 constitute a violation of the LMRDA in your
11 understanding?

12 MR. KURNICK: Objection.
13 Calls for a legal conclusion by the witness.

14 THE WITNESS: I still answer,
15 Bob?

16 MR. KURNICK: Yes. I'm sorry.
17 You still have to answer.

18 THE WITNESS: I just want to
19 make sure. It is my understanding, Randy
20 Kieffer's understanding, that a true threat of
21 reprisal would definitely violate the LMRDA.

22 BY MS. DeBRUICKER:

23 Q. And we talked briefly about the
24 attachments to the protest. Would this be any
25 reason not to consider the attachments to the

1 protest?

2 A. I would think it's all a part of his
3 protest, so I took everything under
4 consideration that was sent.

5 Q. Do you have any basis not to
6 consider, either from the IBEW rules or the
7 LMRDA, not to consider the attachments?

8 A. I don't think there's any set rules
9 for a complaint.

10 Q. I'm going to show you what we'll
11 mark as Kieffer No. 3.

12 (Deposition Exhibit No. 3 was
13 marked for identification.)

14 Q. I'll scroll through it quickly.
15 Mr. Kieffer, is that your signature at the
16 bottom of this letter?

17 A. That's my electronic signature, yes.

18 Q. And this is a letter from you to
19 Michael Welsh dated July 28, 2020; do you see
20 that?

21 A. That is correct.

22 Q. And is this your report of your
23 investigation of Mr. Battle's protest?

24 A. It is.

25 Q. What was your purpose of writing

1 this letter?

2 A. For the international vice president
3 to have enough information to make a
4 determination.

5 Q. Did anyone assist you in preparing
6 this letter?

7 MR. KURNICK: To the extent
8 that that question is asking to reveal
9 communications with counsel, we object, and I
10 would instruct him not to answer. But with
11 respect to anybody else, he's free to answer.

12 THE WITNESS: No person, no.
13 I wrote that letter.

14 BY MS. DeBRUICKER:

15 Q. I'm going to ask you a yes or no
16 question. Did you confer with counsel about
17 the content of this letter?

18 A. Yes.

19 Q. Is that something you normally do in
20 the preparation of a report of an
21 investigation?

22 A. Sometimes.

23 Q. And what would indicate when you
24 would confer with counsel and when you
25 wouldn't?

1 A. When there are legal issues, and I
2 consider it a more complicated issue than a
3 member filing charges against another member.

4 Q. This is a yes or no question. Did
5 your counsel provide you any input to the
6 letter that you appropriated into the letter?

7 MR. KURNICK: I object to that
8 question. Randy, you can answer.

9 THE WITNESS: Counsel gave me
10 -- we spoke about the content of the letter.

11 BY MS. DeBRUICKER:

12 Q. Okay. I'm going to ask some careful
13 questions here because there are things that
14 I'm not entitled to know, and I don't want to.

15 Did you make changes to this letter
16 based on your conversations with counsel?

17 A. Yes.

18 Q. And who was the counsel you spoke
19 to?

20 MR. KURNICK: Question assumes
21 he spoke to counsel.

22 BY MS. DeBRUICKER:

23 Q. Who is the counsel you conferred
24 with regarding this letter?

25 A. Jon Newman.

1 Q. And is Mr. Newman with the
2 international?

3 A. Yes. He is counsel for IBEW.

4 Q. Did you confer with anyone else
5 regarding the content of this letter, that we
6 haven't spoken about?

7 A. Vice President Welsh.

8 Q. Did you submit a draft of the letter
9 to Mr. Welsh?

10 A. Yes, I did.

11 Q. And did he provide you feedback in
12 terms of the content?

13 A. We spoke. He didn't provide much
14 feedback, but we spoke. And I just wanted to
15 make sure I was being clear on what I found.

16 Q. Did Mr. Welsh ask you to make any
17 changes to the letter?

18 A. No.

19 Q. Do you, typically, provide IVP Welsh
20 a draft of your report before finalizing it?

21 A. Yeah, I can. Sure. I do on
22 occasion.

23 Q. And at the time you dated and signed
24 this letter on July 28, 2020, did you consider
25 your role in investigating Mr. Battle's protest

1 to be complete?

2 A. Yes, I did.

3 Q. Is this the form you -- did
4 Mr. Welsh ask you to do any followup
5 investigation after you submitted this letter?

6 A. We continued to get complaint
7 letters, different letters from Mr. Battle and
8 other people. And Mr. Welsh sent them to me
9 for my file on record.

10 Q. Did he ask you to do any followup
11 with respect to your findings that you reported
12 on July 28, 2020?

13 A. I don't think so. No.

14 Q. I'm going to ask you some questions
15 about the content of the letter. So my
16 intention is to focus your attention kind of
17 paragraph by paragraph. But if it would be
18 helpful to you to review the document in full
19 before I do that, I want to be sure you have
20 the opportunity to. Would you like a chance to
21 read through this before I direct your
22 attention to particular places?

23 A. No, I'm okay. I know the document.

24 Q. And is the size okay? Are you able
25 to see it? That's better.

1 All right. Mr. Kieffer, starting
2 with the first paragraph, you list the number
3 of people who you spoke with during the course
4 of your investigation.

5 A. Yes.

6 Q. Is there anyone else you spoke to in
7 the course of the investigation who you didn't
8 list?

9 A. I mean, besides the vice president,
10 no. That was about it.

11 Q. Did you have an opportunity to speak
12 with a gentleman named Timothy McConnell?

13 A. Yes, I did.

14 Q. And was that in the course of your
15 investigation?

16 A. That was a separate issue.

17 Q. Okay. It's my understanding that
18 you had interviewed Mr. McConnell prior to
19 July 28, 2020. Is that a recollection you had?

20 A. Yes, I believe so.

21 Q. So is the reason you didn't list him
22 here because you considered that to be a
23 separate issue?

24 A. No. I didn't list him because he
25 asked me not to use his name in anything.

1 Q. Did you consider identifying that
2 you had interviewed another Local 98 member who
3 didn't wish to be identified?

4 A. Excuse me? I'm sorry, I didn't --

5 Q. Did you consider including here,
6 among the people whom you interviewed, a note
7 that you did interview someone else who wished
8 not to be identified?

9 A. No. Not in this report.

10 Q. And why was that?

11 A. I did a separate report. I reported
12 Tim McConnell separately to the vice president
13 to keep the confidentiality.

14 Q. I'm going to direct your attention
15 to the third paragraph here. The Local 98
16 executive board designed a nomination meeting
17 that was set for June 9th, which they felt
18 would be safe for all participants to comply
19 with all CDC and City of Philadelphia
20 guidelines. The nomination notice (attached)
21 was sent in a timely manner. The special
22 nomination meeting was designed so that only
23 candidates and members that want to nominate a
24 candidate should be present at the meeting for
25 safety. No one was denied access to the

1 meeting.

2 Did you have the opportunity -- I
3 take it you reviewed the notice that Local 98
4 sent regarding the election?

5 A. Yes.

6 Q. I'm going to jump to see if I can
7 pull that notice up. So this is Attachment A
8 to Mr. Battle's protest. Do you recognize that
9 as the notice you were speaking of in your
10 letter?

11 A. Yes.

12 Q. Was it your understanding that
13 Local 98 was intending to limit the number of
14 people at the union hall at any given time?

15 A. It was my understanding they were
16 trying to conform to the CDC guidelines, yes.

17 Q. And it says, at the bottom of the
18 paragraph at the top of the screen, members
19 should not congregate in the parking lot or on
20 the sidewalks before or after the meeting. Do
21 you see that?

22 A. Yes.

23 Q. Then this middle paragraph provides,
24 nominations shall take place on June 9th
25 beginning at 7:00 p.m. at the union's offices

1 at 1719 Spring Garden Street. Acknowledgments
2 and willingness to be nominated for office must
3 be received by the union no later than 5 p.m.
4 on June 9, 2020.

5 What was your understanding of that
6 statement?

7 A. Acknowledgments of nominations
8 should be handed in by 5:00 on June 9th.

9 Q. We talked about the IBEW
10 constitution requiring -- providing, that
11 nominations could be made either in person or
12 in writing. Do you read this provision of the
13 notice as requiring both?

14 MR. KURNICK: I hate to
15 interrupt, but I have to object. He doesn't
16 the have any greater understanding of what this
17 language means than you or I do. He didn't
18 draft it, it's not his document. So he is in
19 the same position as everybody else and simply
20 reading it. But, Randy, go ahead and answer.

21 THE WITNESS: What was the
22 question, again? I'm sorry.

23 BY MS. DeBRUICKER:

24 Q. The question was, if IBEW's
25 constitution requires that nominations be made

1 either in writing or in person, do you read
2 this provision as requiring both, that someone
3 submit something in writing and be there in
4 person?

5 A. Again, it's speculation on my part.
6 But no, I don't.

7 Q. As part of your evaluation of
8 Mr. Battle's protest, did you determine the
9 sufficiency of this notice?

10 A. I determined if Mr. Battle went
11 through the procedure.

12 Q. Looking at the next page of your
13 July 28th letter, your next paragraph begins,
14 the notice may not have been clear to some
15 people since no one ever designed a nomination
16 meeting during a pandemic.

17 In what way may the notice have not
18 been clear to some people?

19 A. Some people are used to doing the
20 same thing over and over and over. And when
21 you change it, no matter how easy you make it,
22 there are questions on it.

23 Q. And if some people, indeed, found
24 the notice unclear, for whatever reason, would
25 that be of concern to IBEW?

1 A. I believe if it was unclear, they
2 should have made an inquiry to clear it up.

3 Q. Is there an obligation on the part
4 of the local to make sure their election
5 processes are clear, that their nominations
6 processes are clear?

7 MR. KURNICK: Objection.
8 Calls for a legal conclusion.

9 THE WITNESS: I mean -- could
10 you repeat the question?

11 MS. DeBRUICKER: Let me ask
12 our court reporter to read that back.

13 (Reporter read back from the
14 record.)

15 THE WITNESS: I think that any
16 notice that went out should be clear.

17 BY MS. DeBRUICKER:

18 Q. The paragraph continues, the
19 executive board tried to design a nomination
20 meeting so someone running for office could
21 fill out a nomination form that would be read
22 at the meeting and/or just get nominated at the
23 special nomination meeting.

24 Is that your understanding of what
25 was required?

1 A. Yes.

2 Q. So it's your understanding that
3 someone could submit a nomination form that
4 would be read at the meeting and that would be
5 sufficient; correct?

6 A. Yes.

7 Q. We've heard a statement that Local
8 98 required nominations to be made by a member
9 who was present at the meeting. Have you heard
10 such a statement or did you hear such a
11 statement during the course of your
12 investigation?

13 A. What was the statement? I'm sorry.
14 I didn't --

15 Q. We've heard a statement that
16 Local 98 required nominations be made by a
17 member at the meeting in person. Did you hear
18 such a statement during the course of your
19 investigations?

20 A. Charles Battle thought that was the
21 case. He did tell me that, but he didn't ask
22 anybody that.

23 Q. Did you hear from Local 98 that that
24 was their requirement?

25 A. No, I did not.

1 Q. In your understanding, would a
2 requirement that a nomination must be made in
3 person have to be consistent with IBEW's
4 constitution?

5 A. Did you say they must be at the
6 meeting?

7 Q. Yes.

8 A. The consistence -- I don't know how
9 to answer that, but I'll give you my
10 interpretation. The IBEW would take a written
11 nomination or nomination in person at the
12 meeting.

13 Q. And if Local 98 did require a
14 nomination to be made in person at the meeting,
15 who would decide whether that was consistent
16 with the IBEW constitution or rules?

17 A. The IBEW constitution is interpreted
18 by one person, and that's International
19 President Stephenson.

20 Q. So that's not for the local to
21 determine, that would be for the international
22 president to determine?

23 A. The international president
24 determines everything in the constitution.

25 Q. We heard testimony yesterday that

1 written nomination forms were not read at the
2 meeting. Do you have any other information
3 indicating otherwise?

4 A. I don't have any information on
5 that.

6 Q. We heard testimony yesterday that
7 only the nominations made in person during the
8 meeting were recognized. In your opinion,
9 would that have been proper?

10 A. I was under the opinion that there
11 was no one running, that the offices were all
12 uncontested.

13 Q. If nominations had been submitted in
14 writing but only nominations that were made in
15 person were considered, in your opinion, would
16 that have been improper?

17 MR. KURNICK: Again, I have to
18 object. You're giving him scenarios that
19 aren't necessarily consistent with his
20 understanding of the facts and asking him to
21 speculate on whether the IBEW would deem them
22 consistent with its constitution or not. So
23 with that objection, Randy, please answer.

24 THE WITNESS: If they were
25 properly -- if it was a proper form, given to

1 the chair properly, I would say that that would
2 be a proper nomination.

3 BY MS. DeBRUICKER:

4 Q. In your second paragraph, you
5 stated, in my conversation with Brother Battle,
6 he told me he arrived at the union hall with
7 the belief of having a few members there to
8 support his candidacy, but when he arrived,
9 these members no longer wanted to support his
10 candidacy.

11 Brother Battle said his two
12 supporters were intimidated by some members and
13 business agents not to support his candidacy.
14 I asked Brother Battle if these members would
15 be willing to talk to me regarding the
16 allegations of intimidation, but none are
17 willing to speak to me.

18 Did you ask Mr. Battle why these
19 individuals were not willing to speak to you?

20 A. Yes, I did.

21 Q. And what was his response?

22 A. He was not sure.

23 Q. Do you recall what words he used?

24 A. I don't recall exactly what he used.

25 Q. Did you take notes of your

1 conversation with Mr. Battle?

2 A. Yes, I did.

3 Q. And would those notes indicate word
4 for word what he said or were they summaries?

5 A. I think they were a summary.

6 Q. In his protest, Mr. Battle indicated
7 that the people who were going to nominate him
8 didn't out of fear of intimidation; is that
9 correct?

10 A. Yeah. It was his opinion that
11 that's why they wouldn't speak.

12 Q. Did you take any measures to
13 encourage those members to come forward?

14 A. I didn't know them.

15 Q. Did you take any measures to try to
16 identify those members?

17 A. Yes, I did, through Charles Battle.
18 I tried to get Charles Battle to have them call
19 me several times and it was several weeks and
20 to no avail, until a few weeks -- I talked to
21 McConnell.

22 Q. Would there have been other ways to
23 ask members like that to come forward?

24 A. I'd have no idea who they are.
25 There are 4,000 members.

1 Q. Did you consider communicating with
2 the local to ask members to come forward on an
3 anonymous basis?

4 A. No.

5 Q. Next paragraph, it says that, at the
6 nomination meeting, Brother Battle was given
7 the nomination paper and on this paperwork,
8 there is a line that lists nominee and
9 nominator. Brother Battle stated to me in our
10 discussion that he intended to nominate himself
11 for president.

12 Do you recall him stating,
13 specifically, he intended to nominate himself?

14 A. He told me that he thought he could
15 nominate himself and he was thinking about if
16 he could. I asked him point-blank, why didn't
17 you ask anyone. And he did not. He took it
18 upon himself. He was not sure if he could
19 nominate himself. And his exact words were, I
20 took the nomination paper, I walked out to my
21 truck, and I sat in my truck, and I
22 contemplated on what I was going to do.

23 Q. You're saying those were his
24 exact words. How do you know that?

25 A. They were his exact words.

1 Q. That he spoke to you?

2 A. Yes.

3 Q. If he had intended to nominate
4 himself, why would he have needed nominators
5 and seconders?

6 A. I don't know. I believe he thought
7 he needed a nominator and seconders.

8 Q. Continuing on. He was relatively
9 sure he could nominate himself, but not
10 positive. Do you see that?

11 A. Correct.

12 Q. Do you recall him, specifically,
13 saying that?

14 A. Yes.

15 Q. Again, if he thought he needed
16 nominators, how is that consistent with an
17 understanding that he could nominate himself?

18 A. His exact words were he thought that
19 he could nominate himself, but he was not sure.

20 Q. Do you have notes of those exact
21 words or is that in your recollection?

22 A. I don't know if I wrote that
23 exactly, but I do remember the conversation I
24 had with him. And that synopsis is in my notes
25 somewhere, which I submitted.

1 Q. Who did you submit your notes to?

2 THE WITNESS: Bob, who did we
3 submit my notes to?

4 MR. KURNICK: We submitted
5 those notes to your office, Ms. DeBruicker.
6 You should have them.

7 MS. DeBRUICKER: I'm at the
8 U.S. Attorney's Office.

9 MR. KURNICK: I know. I know
10 exactly where you are. And that is where we
11 submitted them.

12 MS. DeBRUICKER:

13 Q. You indicated that no officer gave
14 Mr. Battle any advice, nor did he ask anyone
15 for advice.

16 A. That is correct.

17 Q. Who should he have asked?

18 A. He could have asked anyone. The
19 president was present, sergeant at arms. All
20 the officers were present, he could have asked
21 them.

22 Q. The notice said that the written
23 forms had to be submitted by 5:00. Were any of
24 those people there at that time, as far as you
25 know?

1 A. I don't know. I would surmise that
2 President Burrows was there because Charlie
3 Battle, when he wanted to look at the forms,
4 asked about looking at the forms. And Brian
5 Burrows' name came up. So I'm surmising from
6 Charles Battle's testimony that at least the
7 president was there.

8 Q. Does the international have a
9 resource for members who have questions about
10 nominations and elections processes?

11 A. They could just call the District
12 Office.

13 Q. Is there a particular person who is
14 designated to field those questions?

15 A. The District Office, the vice
16 president could field it or give it to me to
17 field, or any one of his reps.

18 Q. Do you know how Mr. Battle came to
19 get the nomination form?

20 A. I imagine he went in and asked for
21 one at the window.

22 Q. Do you have any information on that
23 or are you imagining?

24 A. I'm imagining.

25 Q. We heard testimony yesterday that

1 there were no nomination forms at the union
2 hall that night. Would that be important to
3 your evaluation?

4 A. That's the first I've heard of it.

5 Q. We heard testimony yesterday that
6 even Local 98's in-house counsel couldn't -- so
7 did you learn that at all during your
8 investigation?

9 A. No, I didn't.

10 THE REPORTER: Sorry, Counsel.
11 I didn't hear all of your question. I got the
12 answer.

13 BY MS. DeBRUICKER:

14 Q. We heard testimony yesterday that
15 even Local 98's in-house counsel couldn't
16 answer these questions regarding the election.
17 Did you have any information of that during
18 your investigation?

19 A. Charles Battle told me he did not
20 ask any questions to anyone. That is also in
21 my notes.

22 Q. You follow up with, Brother Battle
23 left the union office with the nomination
24 paperwork and sat in his vehicle contemplating
25 what to do. And he decided not to turn in the

1 paperwork and decided not to attend the 7:00
2 meeting.

3 Do you see that?

4 A. Yes.

5 Q. What is that based on?

6 A. That is based on Brother Battle's
7 testimony to me.

8 Q. Local 98 produced to us Mr. Battle's
9 nomination form that I referred to as Kieffer
10 Exhibit No. 1. Do you have any understanding
11 as to how they came to get the form?

12 A. I do not.

13 Q. During your investigation, did you
14 ask Local 98 whether Mr. Battle submitted the
15 form?

16 A. I did not.

17 Q. Did you ask Local 98, during your
18 investigation, whether anyone else submitted
19 the form?

20 A. I did not.

21 Q. At some point, did you come to learn
22 that Mr. Battle had submitted the form to Local
23 98 the night of the nomination meeting?

24 A. Yes.

25 Q. When did you learn that?

1 A. When I read the Complaint through
2 the Department of Labor.

3 Q. Are you referring to the Complaint
4 that was filed in court or some other document?

5 A. The Complaint that was filed in
6 court.

7 Q. When were you interviewed by the
8 Department to Labor, Mr. Kieffer?

9 A. I would have to look up the date.
10 I'm sorry, I don't have that offhand.

11 Q. If your report was dated July 28,
12 2020, could you estimate whether it was a
13 couple of weeks or months after that, when you
14 were interviewed by DOL?

15 A. I'm really speculating, but I think
16 it was a few months.

17 Q. Do you think it may have been
18 sometime in the fall?

19 A. It may have been. I really hate to
20 give you a date and it not be accurate.

21 Q. Is it your testimony that you were
22 unaware of Mr. Battle's nomination form --

23 A. I was unaware --

24 Q. -- at that time?

25 A. Yes.

1 Q. Moving to the next paragraph,
2 Brother Battle also claims he should have been
3 able to review all the nomination paperwork
4 that other's seeking office submitted. He
5 claims that if it had been a normal in-person
6 nomination meeting, he would have been able to
7 see who else was running for office and for
8 what office they were seeking.

9 Do you know whether Mr. Battle was
10 allowed to see the nomination form?

11 A. It's my understanding that he was
12 not allowed to.

13 Q. Where did that understanding come
14 from?

15 A. Me questioning Mr. Battle.

16 Q. Is there an IBEW rule against
17 showing members nomination forms?

18 A. I do not believe so.

19 Q. Do you know whether others running
20 for office were allowed to see the forms?

21 A. I do not know. That was a local
22 union ruling, not an IBEW international ruling.

23 Q. Do you know of any other way that
24 members who were not present at the union hall
25 would have become aware that Battle was running

1 for office after he submitted his nomination
2 form?

3 A. I have no idea.

4 Q. Generally speaking, do you think
5 there's an advantage to knowing who else is
6 seeking nominations before the nominations
7 begin?

8 A. Purely speculation, I don't think it
9 would matter.

10 Q. Does it make sense to you that a
11 member may want to seek a different office
12 depending on who else was running for a
13 particular office?

14 A. They could but in my -- again, it's
15 a Randy Kieffer opinion, then they're just
16 looking for an office and not looking to run
17 for a particular position so they can help the
18 local.

19 Q. Continuing on in the same Paragraph,
20 one, two, three, four lines down. If Brother
21 Battle had filled out the nomination form, he
22 would have been given admission to the meeting,
23 and at the meeting, he could have seen who was
24 nominated no differently than any other
25 meeting.

1 Is that your understanding?

2 A. My understanding is that the
3 nomination forms would have been read.

4 Q. And if he had filled out the
5 nomination form, he would have been given
6 admission to the meeting.

7 What did you mean by that?

8 A. He was given admission to the
9 meeting if he filled out the form.

10 Q. Do you know how he would have been
11 given admission to the meeting?

12 A. Just walked in.

13 Q. Do you know who would have given him
14 that admission?

15 A. I don't think anybody was in charge
16 of it. I think they just let so many people in
17 to the union hall, the amount of people who
18 were allowed through the guidelines for
19 nominations and circulate them.

20 Q. I think we've established that
21 presence at the meeting wasn't required,
22 correct, his form could have been read there?

23 A. I believe so.

24 Q. Moving to the next paragraph.

25 Brother Battle asserts that a sign

1 at the door may have been a ploy to intimidate
2 him not to enter the building because it said
3 that he would need three people present. The
4 sign said that only the candidate, nominator,
5 and member seconding the nomination would be
6 allowed into the building.

7 Did you see that sign during your
8 investigation?

9 A. I saw a photo of it.

10 Q. This is the photo that was attached
11 to Mr. Battle's protest. Is this the photo
12 you're referring to?

13 A. That is correct.

14 Q. It's a little tough to read, but I
15 believe it says, the only members who will be
16 admitted into the meeting will be the nominated
17 candidate, the member nominating the candidate,
18 and the member seconding the nomination.

19 Does that sound right to you?

20 A. Yes.

21 Q. If Local 98 were intending to limit
22 attendance at the meeting, wouldn't the sign
23 say that nominators and seconders were not
24 needed?

25 A. That was their ruling, I don't want

1 to speculate. I believe they limited the
2 amount of people by just allowing them, the
3 three that were listed there, by not having
4 people just show up by not being one of those
5 three. I think that was their way of limiting
6 the amount.

7 Q. Do you see how a member might
8 understand that notice to mean that nominators
9 and seconders were required?

10 A. No, I don't.

11 Q. Why not?

12 A. It says the nominator is allowed,
13 the candidate, the member nominating the
14 candidate, and the seconder are allowed. Me,
15 personally, if you're any one of them, you're
16 allowed.

17 Q. My question is, could you understand
18 how a member could read this to understand that
19 nominators and seconders were required?

20 MR. KURNICK: That question
21 was asked and answered.

22 THE WITNESS: I don't read it
23 that way. I read it as the candidate could go
24 in himself.

25 BY MS. DeBRUICKER:

1 Q. Understanding that you don't read it
2 that way, could you understand how someone else
3 said might read it --

4 MR. KURNICK: Counsel, I have
5 to object to --

6 MR. PODRAZZA: Speculation.
7 And how is he supposed to step into the mind of
8 somebody else? We've been pretty patient about
9 this, can we move this along?

10 MR. KURNICK: Let me interpose
11 my objection. It seems to me that even though
12 you are certainly asking in a polite manner,
13 the form of the questions are, at this point,
14 argumentative. If you want him to answer
15 again, he can answer again.

16 THE WITNESS: No, I don't. I
17 -- you know, everybody has an interpretation,
18 but it would be a far reach for me to interpret
19 that you must have all three of them to be
20 admitted. I think that it's pretty clear that
21 if you're any one of them, you would be
22 admitted.

23 BY MS. DeBRUICKER:

24 Q. Moving to the top of the next page.
25 Brother Battle may have been confused.

1 Would it be a concern that a member
2 was confused, to IBEW?

3 A. It should be a concern to the member
4 while he doesn't know. But to be confused -- I
5 can confuse members with the simplest of
6 things.

7 Q. What did the local do that may have
8 been confusing?

9 A. I think Charles Battle had a
10 particular thing in his mind. He didn't ask,
11 and he was confused. He thought he needed
12 other people to nominate him, he didn't. But
13 he didn't ask anybody.

14 Q. You state, he may have been
15 confused, but he could have self-nominated
16 himself on the nomination paperwork or just
17 attended the meeting and nominated himself. If
18 he would have done either, he would have been
19 an official candidate for office.

20 Is that your finding?

21 A. Yes.

22 Q. The next couple of paragraphs deal
23 with Local Union 98 business agent Bob Bark.
24 Do you recall your conversations with
25 Mr. Battle regarding Mr. Bark?

1 A. Yes, I do.

2 Q. Did you speak with Mr. Bark
3 regarding these interactions with Mr. Battle?

4 A. Yes, I did.

5 Q. Next paragraph begins, several
6 months ago, Brother Battle started voicing
7 disapproval with the present officers and local
8 union practices at general meetings. Members
9 voicing their opinions at general union
10 meetings is a very normal practice.

11 Have you been to Local 98 meetings?

12 A. A few.

13 Q. Was that your assessment, that
14 members voicing their opinions at general union
15 meetings is a very normal practice?

16 A. No. My assessment of that was being
17 a business manager for nearly ten years.

18 Q. But you were a business manager at
19 the local in Reading; do I have that right?

20 A. Yes.

21 Q. So you were basing your assessment
22 on your experience at that local, not Local 98?

23 A. Yes. Follow-up is that I represent
24 them, especially my home local, when I was in
25 charge as a business manager.

1 Q. Did you ever attend Local 98 general
2 union meetings?

3 A. Yeah. A few.

4 Q. How many?

5 A. Possibly ten throughout the last
6 20 years, maybe eight. Reps, normally, do not
7 attend general meetings.

8 Q. Did you ask anyone else whether it
9 was a very normal practice for members to speak
10 out during meetings?

11 A. I didn't think I had to.

12 Q. You continue, after speaking with
13 several officers, it was unusual and out of
14 character for Brother Battle to be so
15 confrontational at general meetings.

16 What several officers are you
17 referring to?

18 A. Actually, I spoke to Brain Burrows.
19 I even talked to Bark, he's not an officer, but
20 he's an agent. And they told me that Charles
21 Battle was never any kind of confrontational
22 type of -- never had issues, was always a quiet
23 guy. And he just started getting angry at
24 meetings. They weren't sure why.

25 Q. Why was it important -- was it

1 important to your investigation of Mr. Battle's
2 protest that he was speaking out at meetings?

3 A. State that again. I'm sorry.

4 Q. Why was Mr. Battle's speaking out at
5 meetings a factor in your investigation of his
6 protest?

7 A. Because Mr. Battle complained about
8 Bark coming to his residence. And it came out
9 that he went to his residence because he wanted
10 to find why Charles was angry at the meetings.

11 Q. When you say it came out, how did it
12 come out?

13 A. After talking to Agent Bark and
14 Charles Battle.

15 Q. In your next paragraph, you begin,
16 Brother Battle portrayed that, about the same
17 time he started voicing his opinion, Local
18 Union 98 business agent Bob Bark started
19 showing up at his house unannounced to
20 intimidate him.

21 A. That was Charles Battle's
22 interpretation, yes.

23 Q. Was there any dispute that Mr. Bark
24 showed up at Mr. Battle's house unannounced?

25 A. No.

1 Q. You continue, after speaking to
2 Agent Bark, I found that both Bark and Charles
3 Battle were personal friends for years. They
4 went fishing together, went out to bars
5 together, and Agent Bark considered Brother
6 Battle as a friend.

7 A. Yes.

8 Q. And how is that pertinent to your
9 analysis -- or your investigation?

10 A. Brother Bark coming to his house as
11 a stranger just showing up, which I could see
12 where that could intimidate some people, a
13 total stranger showing up and knocking on your
14 door, standing in your driveway. He portrayed
15 it as he -- it was just a thing that normally
16 did not happen. And I found out that Brother
17 Bark and Charles Battle were friends. They
18 went out together, they knew each other, they
19 were friends for years. So it was not uncommon
20 or an out of the ordinary thing for Brother
21 Bark to stop at Charles Battle's house.

22 Charles tried to portray that to me,
23 and I thought it was important that the vice
24 president know that it was not just a random
25 person, that he did not just show up.

1 Q. Even if they knew each other, is it
2 okay for people, even people that you know, to
3 show up at our house unannounced?

4 A. It happens to me, yes.
5 Unfortunately, it does.

6 Q. Why unfortunately?

7 A. Sometimes you don't want to see
8 someone.

9 Q. You continue, the first time, Agent
10 Bark drove to Brother Battle's house and called
11 him from the phone outside.

12 From that, did you understand that
13 Mr. Bark didn't tell Brother Battle that he was
14 coming that night?

15 A. Yeah. I understand that the first
16 time Battle knew that he was coming was when he
17 called him on the phone.

18 Q. From outside of his house; right?

19 A. Yes.

20 Q. Did you find that a little weird?

21 A. Not necessarily, no.

22 Q. He asked Brother Battle to go out
23 and have a beer together. Brother Battle went
24 and had drinks with Agent Bark. What did
25 Mr. Battle tell you about that occasion?

1 A. He didn't say much about that.

2 Q. Did he tell you he took Agent Bark
3 out for beers to get him away from his house?

4 A. No.

5 Q. What was your understanding of why
6 Mr. Bark went to Mr. Battle's house that time?

7 A. My understanding was he wanted to
8 talk to Battle to see what he was angry about
9 at the meetings.

10 Q. Is that how business was conducted
11 at the local that you were in, you sent people
12 to people's houses?

13 MR. KURNICK: Objection.

14 Wait, wait.

15 MR. PODRAZZA: Objection.

16 MR. KURNICK: There is no
17 testimony that anybody sent Battle to -- I'm
18 sorry, sent Bark to Battle's house. So it
19 assumes a fact not in evidence.

20 THE WITNESS: Again, I don't
21 know if anybody sent Bark anywhere. I think
22 Bark might have just showed up. I don't know
23 that.

24 BY MS. DeBRUICKER:

25 Q. And then in the next paragraph, you

1 discuss a second time Agent Bark went to
2 Brother Battle's house. What was your
3 understanding of why Agent Bark went to Brother
4 Battle's house the second time?

5 A. I believe it was the same reason.
6 Brother Bark told me it was the same reason.

7 Q. Do you know how long before the
8 nomination meeting that visit was?

9 A. Offhand, I don't. But I know it was
10 close to nominations.

11 Q. Do you believe there's any
12 relationship between Bark's visit and the
13 nomination meeting?

14 A. I don't know that.

15 Q. Did you ask?

16 A. Brother Battle told me that he told
17 Brother Bark not to show up anymore. And
18 Brother Bark said, oh, okay, I'm sorry. And he
19 left and he never showed up again. That was
20 the conversation I was told they had.

21 Q. When was your understanding
22 Mr. Battle told Mr. Bark he didn't want him
23 showing up anymore?

24 A. At the second time Mr. Bark showed
25 up.

1 Q. Mr. Kieffer, I'm going to show you a
2 text message that we will mark as Kieffer -- I
3 think we're up to 5 [sic].

4 (Deposition Exhibit No. 4 was
5 marked for identification.)

6 Q. It's a text from Bob Bark dated
7 June 8, 2020. Do you understand that to be the
8 night before the nominations meeting?

9 A. If the date is correct, yes.

10 Q. The nominations meeting was
11 June 9th; correct?

12 A. That is correct.

13 Q. So at 9:08, on June 8, 2020, Mr.
14 Bark texts, hey, Charlie, that did not go the
15 way I was hoping. I knew you would be a little
16 mad about me coming to your house from the
17 conversation we had on the job that time.

18 Does this indicate to you when
19 Mr. Battle told -- does this indicate to you
20 that Mr. Bark knew Mr. Battle did not welcome
21 him at his home?

22 A. I never saw this before. I never
23 saw this text before. I have no idea.

24 Q. Did you ask Mr. Bark when Mr. Battle
25 told him he didn't want him showing up at his

1 house?

2 A. Battle told me the second night he
3 was there, he told him not to show up anymore.
4 And Bark said he did not come.

5 Q. Does this indicate to you that Bark
6 knew he was not welcome when he came?

7 A. I don't know what that is. I never
8 read that. And I never verified any of that
9 document there.

10 Q. Would it have been important to know
11 whether Mr. Bark was welcome at Mr. Battle's
12 home that evening?

13 A. No. I don't think that would have
14 been my matter. That would have been a matter
15 between them.

16 Q. It wouldn't have been important to
17 you to know that Mr. Battle had already told
18 Mr. Bark not to come to his house anymore but
19 he did anyway?

20 A. Speculation -- I would have to think
21 about it.

22 Q. In your last paragraph beginning
23 here on the third line, Brother Kee accompanied
24 Agent Bark because several years ago, Brother
25 Kee and Agent Bark were living alone together

1 and Brother Battle found out both of them had
2 nowhere to go for Thanksgiving. He invited
3 both Kee and Bark to have Thanksgiving dinner
4 with him and his family at his house.

5 So from my understanding, Brother
6 Kee accompanied Agent Bark because they had
7 been to Thanksgiving at his house. Is that the
8 general point you're making?

9 A. Yeah. They knew each other.

10 Q. Okay. So as long as they knew each
11 other, it was okay to show up at his house?

12 A. I would think so.

13 Q. Do you think it's appropriate for
14 two members to show up at a fellow member's
15 home unannounced to address union issues?

16 A. I don't know if that's appropriate,
17 but I think it happens all the time.

18 Q. Is it the kind of conduct that the
19 international expects of its locals?

20 MR. KURNICK: Objection. I
21 don't think Mr. Kieffer is competent to talk
22 about what the international expects. And I
23 don't even know what that question means. I
24 think the question is unanswerable and terribly
25 vague.

1 THE WITNESS: Yeah. I don't
2 understand the question, so I can't answer it.

3 BY MS. DeBRUICKER:

4 Q. At the end of the paragraph you
5 indicate, but when Agent Bark and Brother Kee
6 stopped at his house this time, they were met
7 by Brother Battle who was very distraught and
8 told them to get off his property.

9 Who told you that?

10 A. Brother Battle.

11 Q. Did you assume from that that
12 Mr. Bark was not welcome there?

13 A. Pretty much, yes.

14 Q. You mentioned that Agent Bark told
15 you he apologized afterward. Did you find that
16 to mean that Mr. Battle didn't find Mr. Bark's
17 conduct threatening?

18 A. I don't think -- I don't know about
19 the threatening part. I think Brother Battle
20 was mad. I can't -- I mean, that's
21 speculation. But the way he portrayed it to
22 me, he was just mad. I don't know if he was
23 intimidated, but he was mad.

24 Q. Does an apology make whatever made
25 him mad okay?

1 A. That's for whoever to decide, not
2 me. I don't know.

3 Q. You conclude by mentioning that
4 Mr. Bark said he never raised his voice.

5 Does a voice have to be raised to
6 constitute intimidation or threatening
7 behavior?

8 A. Threatening behavior can be
9 interpreted so many different ways by so many
10 different people. It's purely speculative.

11 Q. Does IBEW have a working definition
12 of what kind of conduct constitutes improper
13 interference with an election?

14 A. I don't think we have a written
15 document.

16 Q. Do you have, kind of, a working
17 concept that people use?

18 A. The LMRDA regulations.

19 Q. To find that a local's conduct
20 interfered with a member's right to run for
21 office, does the international require that the
22 conduct be threatening?

23 A. I don't know how to answer that. I
24 don't understand it.

25 Q. To find that a local's conduct

1 interfered with a member's right to run for
2 office, does the international require that the
3 conduct be threats of physical violence?

4 MR. KURNICK: And I apologize
5 for interrupting, but I have to object, in
6 part, because these questions about the
7 international do this or the international do
8 that have no foundation here. Mr. Kieffer is
9 an international rep. You have the
10 constitution, you have basic laws and policies,
11 you have the local union election guide, and we
12 all have copies of the LMRDA, presumably.

13 But to ask him about what the
14 international requires or thinks or believes
15 are questions that you haven't established that
16 he's competent to answer.

17 BY MS. DeBRUICKER:

18 Q. You can answer the question,
19 Mr. Kieffer.

20 A. I don't know. I am not competent to
21 answer that question. I'm really not. Quite
22 honestly, not to make light of it, but I call
23 balls and strikes, and I write them down to
24 give them to my bosses to make decisions.

25 Q. When you are evaluating an internal

1 election protest alleging undue influence by
2 the union in an election, do you consider
3 things other than threats of physical violence?

4 A. I consider all things.

5 Q. Do you consider whether the conduct
6 was intended to influence the election or not?

7 A. I evaluate the conduct.

8 Q. And is the intent behind the conduct
9 something you evaluate?

10 A. If I could.

11 Q. In your understanding of the LMRDA,
12 does someone have to intend to interfere with
13 an election in order to interfere with an
14 election?

15 MR. KURNICK: Objection. That
16 calls for a legal conclusion on the part of the
17 witness.

18 THE WITNESS: I'm not an
19 attorney, so I don't have an answer or an
20 interpretation of it.

21 BY MS. DeBRUICKER:

22 Q. I understand that Mr. Battle
23 considered -- was it your understanding that
24 Mr. Battle considered Mr. Bark's conduct
25 threatening? I'm not saying whether it was,

1 was it your understanding that Mr. Battle
2 considered it?

3 A. Mr. Battle told me that he thought
4 it was intimidation.

5 Q. In your evaluation, did you credit
6 Mr. Bark's statement that it wasn't intended to
7 be intimidating over Mr. Battle's statement
8 that it was?

9 A. I didn't come to a conclusion on
10 that.

11 MS. DeBRUICKER: We've been
12 going a while. Would anyone like a break at
13 this time?

14 MR. KURNICK: Could you give
15 me a sense -- only because we have to schedule
16 Mr. Welsh's deposition -- how far we are from
17 the finish line on this one?

18 MS. DeBRUICKER: We're more
19 than the halfway point. But I think at the
20 rate we're going, we will be coming up on 2:00
21 for Mr. Welsh. I'm happy to take a break now,
22 or plug through to 2:00 with the intention of
23 getting to Mr. Welsh then.

24 MR. KURNICK: I would like a
25 break in between the two. Do we want to push

1 Mr. Welsh back to 3:00. I also don't want to
2 be here until 8:00 tonight. And Randy, I
3 should defer to you, you're the one doing the
4 talking, tell me if you need a break.

5 THE WITNESS: No. I'm fine,
6 Bob.

7 MR. KURNICK: I would like
8 time in between the two.

9 MS. DeBRUICKER: I would be
10 happy to push Mr. Welsh back to 3:00 in order
11 to allow for a break in between. I think that
12 makes sense for everybody, if that's okay for
13 Mr. Welsh.

14 MR. KURNICK: Okay. Why don't
15 we take a five-minute break now. I will
16 contact Mr. Welsh, and we will all be back
17 shortly.

18 (Recess taken.)

19 BY MS. DeBRUICKER:

20 Q. All right. Mr. Kieffer, I'm going
21 to turn you back to your letter of July 28,
22 2020.

23 At the top of the next page, you
24 report that Agent Bark mentions that Mr. Battle
25 is mad at current officers over a matter

1 relating to his stepson; do you recall Mr. Bark
2 telling you that?

3 A. Yes, I do.

4 Q. Mr. Battle said it was his
5 son-in-law. Do you recall it being his stepson
6 in particular or could that have been a typo?

7 A. I wrote it down as stepson.

8 Q. You recite the issue and finish the
9 paragraph with, Brother Battle did mention this
10 issue but assured me this has nothing to do
11 with any of his complaints.

12 Do you see that?

13 A. Yes.

14 Q. Do you recall Mr. Battle saying that
15 to you?

16 A. Yes, I do.

17 Q. And why do you report on it here?

18 A. I wanted to give a context of --
19 Brother Bark thought it was relevant. Brother
20 Battle did not think it was relevant. I
21 thought it was -- I wasn't sure if it was, so I
22 put it in for the vice president to see if he
23 thought it was relevant.

24 Q. If a member has other complaints or
25 disputes with the union, other than what he or

1 she is protesting, does that play a role in
2 your evaluation of an election protest?

3 A. It could give me a concept of why
4 they're complaining.

5 Q. Why does it matter why they're
6 complaining?

7 A. I get a lot of complaints that go
8 nowhere, and they're complaining just because
9 they're mad at a certain officer.

10 Q. Does the fact if someone's mad or
11 not influence your recommendation to the IVP?

12 A. No.

13 Q. You mention in your next paragraph
14 that, basically, 2020 was very different for
15 everybody. And you say, I've personally
16 fielded complaints from members complaining
17 about just about every aspect outside the
18 normal procedure that was necessary to keep our
19 members safe.

20 what other election complaints did
21 you get in 2020?

22 A. I had two other elections -- not 98,
23 other local unions, that they were run and, of
24 course, the members complained to no avail. A
25 lot of times it was just a phone call complaint

1 that I tracked down and took care of
2 immediately. And it was because we changed
3 procedures. Human beings do not like change.

4 Q. What was the nature of the
5 complaints that you got?

6 A. You know, why can't we nominate in
7 person, why are we not having nominations now.
8 Why are we having nominations now. A gamut of
9 -- my computer is full of them. It's just --
10 it could -- you know, why did we have
11 nominations in the parking lot instead of the
12 union hall. And that's other local unions.

13 Q. Did you find any of the complaints
14 had merit?

15 A. Of the other local unions, no.
16 Quite honestly, I believe it was members just
17 venting. Because, after I spoke to them, they
18 were okay with it.

19 Q. In your concluding paragraph, you
20 state that, if Brother Battle would have just
21 asked someone about the out-of-the-ordinary
22 nomination procedures or attended the actual
23 meeting, he then could have self-nominated and
24 ran for any office of his choice.

25 Just so I'm clear, is your

1 conclusion that he could have self-nominated?

2 A. Yes.

3 Q. You also write that he may have felt
4 intimidated. Was that your finding?

5 A. That was his belief.

6 Q. And you reported that he may have
7 felt intimidated?

8 A. He may have. He told me he did, so
9 he may have.

10 Q. But you continue, that the
11 definition of intimidation can be subjective?

12 A. Yes, it is.

13 Q. So if it is subjective, is there a
14 definition -- a working concept that the
15 international uses or that you use in
16 evaluating a protest?

17 A. There's really no written policy. I
18 take it at face value. For example,
19 intimidation, if someone walks up to someone,
20 some people could take it as intimidating. If
21 that same person walked up to me, I'm 6'4" 300
22 pounds -- or just about 300 pounds -- I could
23 just not even know they're there. So it's
24 definitely subjective. It's to each their own
25 when it comes to that.

1 Q. If it is subjective, whose
2 perspective matters in the evaluation of an
3 internal election protest?

4 A. The opinion of the person who has
5 the authority to make the decision on what to
6 do next.

7 Q. You continue, the claim of
8 intimidation is still not clearly proven.

9 Is that a standard? Does it have to
10 be clearly proven?

11 A. I would think it should be clearly
12 proven to the person making the decision, yes.

13 Q. That same sentence, the claim of
14 intimidation is still not clearly proven and
15 could have taken normal communication between
16 members out of context and thought it may have
17 been an attempt to intimidate.

18 Do you agree that the conduct could
19 have been construed as intimidation, even if
20 you disagree as to whether it was intimidation?
21 Do you agree that the conduct was --

22 A. Yeah -- I can't. I don't know if it
23 was or not. But anything could intimidate
24 anyone, depending on their personality.

25 Q. Setting aside whether or not you

1 agreed with him, did you find that Mr. Battle
2 interpreted the conduct described in your
3 letter as intimidation?

4 A. I found Mr. Battle told me that he
5 thought it was intimidating.

6 Q. Whether or not you agreed with him,
7 would you agree that his interpretation was a
8 reasonable one?

9 A. No. Again, that's such a choice of
10 -- Charles Battle -- again, I go back to what
11 would intimidate some people will not
12 intimidate other people. I don't know what
13 intimidates him. I don't know if he truly felt
14 that way, or if he just felt that it was better
15 to portray it that way. I don't know.

16 Q. Did you find his reports of
17 intimidation not credible?

18 A. No. But I found Mr. Battle left
19 certain things out, as in the friendship thing.
20 Things like that, he left certain things out in
21 my discussion. He left out that he had
22 actually filled out paperwork and gave it to
23 the local union. He left that out.

24 So I've got to piece things
25 together. A lot of times I have three stories,

1 and I've got to try to piece it together as
2 best I the can in order to give the most
3 accurate information to the vice president to
4 make a decision.

5 Q. Did you find Mr. Battle's reports of
6 intimidation unsubstantiated?

7 A. I don't know how to answer it. I
8 don't think he was intimidated as much as he
9 claimed. And that's just a personal opinion.
10 I hate to do that, I know I was told not to do
11 that.

12 Q. And why is that your personal
13 opinion?

14 A. Because I talked to everyone
15 involved many, many times, and I get a feel of
16 their personalities. And that's very
17 subjective.

18 Q. Do you have any information as to
19 how many people were at the nomination meeting
20 that night?

21 A. I heard several numbers. There was
22 no sign-in sheet, so all the numbers are a
23 guess. I heard anywhere from 100 to a few
24 hundred.

25 Q. During the course of your

1 investigation, did you review the minutes of
2 the nomination meeting?

3 A. No, I did not.

4 Q. Okay. Why didn't you?

5 A. I didn't see a reason to look at the
6 minutes because Brother Battle did not show up
7 at the meeting and the meeting was just
8 acclamation.

9 Q. If you had had information that
10 Mr. Battle submitted a nomination, would you be
11 interested in seeing the minutes of the
12 meeting?

13 A. Yes, I would have.

14 Q. And why would you be interested in
15 that?

16 A. To see how the form was handled.

17 Q. How would you expect the form to be
18 handled?

19 A. I would expect, if the form was
20 properly submitted, the chairman to read it on
21 the floor and enter it into the minutes.

22 Q. Do you have a sense -- is that how
23 written nominations are, typically, handled in
24 locals?

25 A. Yes, they are.

1 Q. I'm going to show you what we will
2 mark as Kieffer 6 [sic], I believe is the
3 number we're up to.

4 (Deposition Exhibit No. 5 was
5 marked for identification.)

6 Q. This is a letter dated July 31,
7 2020, addressed to Mr. Battle and signed by
8 Mr. Welsh. Do you see that?

9 A. Yes.

10 Q. Do you recall seeing this letter
11 before?

12 A. Can you make it a little bigger,
13 please?

14 Q. Yes. All right. And I'm going to
15 scroll. Let me know when you want me to scroll
16 again.

17 A. No. I recognize the letter.

18 Q. Okay. What do you recognize this
19 letter to be?

20 A. I recognize this letter to be from
21 Vice President Welsh to Charles Battle.

22 Q. Is it your understanding that this
23 is Mr. Welsh's decision to Mr. Battle's
24 internal election protest?

25 A. I believe so, yes.

1 Q. Did you have any role in drafting
2 this letter?

3 A. No. Besides his reviewing my report
4 to draft that letter, no.

5 Q. Was it your understanding that he
6 would probably base some of his letter on your
7 report?

8 A. If I did my job, I hope so. Yes.

9 Q. Did you have a chance to review this
10 letter before it was issued?

11 A. No, I did not.

12 Q. When did you have the opportunity to
13 review this letter?

14 A. When it was sent, it was copied to
15 me.

16 Q. Do you recall agreeing with the
17 conclusions?

18 A. I don't agree or disagree with the
19 vice president. It's his decision. And I know
20 that sounds like I'm ducking the question, but
21 it's not. It's his decision, so therefore, I
22 agree with it.

23 Q. To the extent that he recites facts
24 or some of the information that you reported to
25 him, do you recall him having anything

1 incorrect?

2 A. No. I don't think the letter is
3 incorrect.

4 Q. I think you mentioned you did speak
5 with Mr. McConnell while you were investigating
6 Mr. Battle's protest; is that correct?

7 A. Yes.

8 Q. Do you recall how many times you
9 spoke with Mr. McConnell?

10 A. I think it was, approximately, three
11 times. It could be more, but I think three
12 conversations.

13 Q. And how did you come to connect with
14 Mr. McConnell?

15 A. After the protest, and I was working
16 on the protest, continuingly, I asked Charles
17 Battle, you know, if anybody would come and
18 speak to me like we talked about prior. And no
19 one would. And I believe Charles Battle
20 emailed me Tim McConnell's name and address --
21 or name and phone number, and I called it.

22 Q. When you spoke with Mr. McConnell,
23 did you have questions prepared for him?

24 A. Yeah. I had a few, yes.

25 Q. Did you take notes of his responses?

1 A. Yes, I did.

2 Q. I'll show you what we'll mark as
3 Kieffer 7 [sic].

4 (Deposition Exhibit No. 6 was
5 marked for identification.)

6 Q. At the top, it's an email from you
7 to Michael Welsh dated Wednesday July 22, 2020.
8 Do you see that?

9 A. Yes.

10 Q. And like most email chains, it
11 actually starts at the bottom. So this is a
12 two-page document. So you're originating
13 message, at least on this chain, was from you
14 to Mr. Welsh, dated July 20, 2020. Do you see
15 that?

16 A. Yes.

17 Q. And you indicate that Mr. Battle
18 told you that Mr. McConnell was going to run
19 for office.

20 A. Yes.

21 Q. What you report was that, a 98 agent
22 called Tim -- who I assume is Mr. McConnell --
23 called Tim's employer and told him that, if
24 your boy Timmy runs for office, it's going to
25 be a problem for you.

1 Do you recall getting that report?

2 A. Yeah. I recall hearing that, yes.

3 Q. You mentioned you'll try to get in
4 contact with McConnell today and find out his
5 story and, if need be, will talk to the
6 employer.

7 Do you see that?

8 A. Yes.

9 Q. What would determine whether you
10 would talk to the employer or not?

11 A. If Tim would talk to me.

12 Q. If he talked to you, would you then
13 talk to the employer?

14 A. Yes.

15 Q. And your next line is, if this
16 happens to be true, in my opinion, it's a
17 definite game-changer to my original report.

18 Do you see that?

19 A. Yes.

20 Q. When you say original report, do you
21 know what you are referring to there?

22 A. To my report I sent to the vice
23 president -- my report that -- the draft that
24 you told me -- that you mentioned. I had to
25 report -- if the dates -- I would have to look

1 at the dates, but my report just about
2 concluded with Battle by the time this came
3 about. And because my report was just about
4 concluded, this is all new information that I
5 would have had to insert into the report.

6 Q. So it's your understanding that you
7 had done your draft report by this time?

8 A. Yes.

9 Q. And why would it have been a
10 definite game-changer, to use your words?

11 A. Well, I believe if that actually
12 took place, that could be -- and it's, you
13 know, speculation again, because I did not talk
14 to the employer. If that actually happened, it
15 could be a total different perspective on the
16 election.

17 Q. How so, how would that be a
18 different perspective?

19 A. You know, you could consider it --
20 you could -- and I'm not saying it is, but you
21 could consider that a threat. I would have to
22 dig into it further.

23 Q. Is it fair to say that that kind of
24 information was of concern to you?

25 A. I certainly wanted to review it and

1 look into it further, yes.

2 Q. You copied a gentleman named Dennis
3 Affinati on this. Who is Mr. Affinati?

4 A. He's our service rep in the office.
5 He's a desk rep. He's in the office of Vice
6 President Welsh. If Vice President Welsh is
7 not in the office, most of the time, I go
8 through Dennis.

9 Q. And then in your -- in a subsequent
10 message, this one's dated July 22 at 9:30 in
11 the morning, you report, I spoke to 98 member
12 Tim McConnell last night regarding the
13 nomination intimidation. And you say, it
14 muddies up things.

15 Do you recall what you meant by
16 that?

17 A. Yeah. I meant that he did not want
18 me to use anything he said. And I think, you
19 know, I could have given the vice president a
20 little bit, and I gave the vice president a
21 report on it, a separate report, but I was told
22 at the end of the original report. Meaning, I
23 thought that my report was over, and then they
24 throw that out there. And if I could have used
25 it, I would have had to redo the entire report

1 to include that.

2 Q. And why wouldn't you include that?

3 A. Excuse me?

4 Q. Why didn't you include

5 Mr. McConnell's --

6 A. Tim McConnell told me he didn't want
7 anything to do with an official report. He
8 only talked to me. He didn't want anything to
9 do with any of this. He said he was not a part
10 of Charles Battle's nomination or election
11 process. And he just wanted to talk to me and
12 not file any kind of report or file any kind of
13 complaint. And he, basically, had me swear
14 that I would not use his name. He did not want
15 his name used.

16 Q. Did you find what he told you
17 relevant to Mr. Battle's protest?

18 A. No. I thought it was a separate
19 issue.

20 Q. Did you have an understanding that
21 Mr. McConnell was one of the other two people
22 Mr. Battle was referring to in his internal
23 protest?

24 A. I believed that after I talked to
25 Tim McConnell.

1 Q. So why would it not have been
2 pertinent to Mr. Battle's protest?

3 A. Oh, I'm sorry. Can I -- I don't
4 think Tim McConnell was one of the two that
5 Battle thought was in his camp. I think they
6 were other people. Sorry if I misspoke on
7 that.

8 Q. Why do you think that?

9 A. Tim McConnell told me directly, he
10 had nothing to do with Charles Battle's
11 nomination or election. He was doing it all on
12 his own. He was considering everything on his
13 own.

14 Q. I'm showing you what we will mark as
15 Kieffer 8 [sic].

16 (Deposition Exhibit No. 7 was
17 marked for identification.)

18 Q. This is a letter on your letterhead
19 dated July 24, 2020. Is that your electronic
20 signature?

21 A. Yes, it is.

22 Q. And the RE: line is, interview
23 Local Union 98 member Tim McConnell regarding
24 nomination of officers.

25 Do you see that?

1 A. Yes.

2 Q. Is this the report that you were
3 referring to of your discussions with
4 Mr. McConnell?

5 A. Yes.

6 Q. How is the size for you,
7 Mr. Kieffer?

8 A. That's fine.

9 Q. Okay. You indicate, while
10 investigating the complaint from Local Union 98
11 member Charles Battle regarding his claim of
12 intimidation from business agents of Local
13 Union 98, prior to local union nominations,
14 Brother Battle alluded to the fact that he was
15 not the only member that was being bullied into
16 not running for office.

17 Do you see that?

18 A. Yes.

19 Q. And that was an accurate statement
20 of what Mr. Battle told you?

21 A. Yeah. That was Battle's statement,
22 yes.

23 Q. Brother Battle told me there were
24 two other members that were considering running
25 for office at the upcoming elections but did

1 not because of intimidation from officers and
2 members.

3 Do you recall Mr. Battle telling you
4 that?

5 A. Yes, I do.

6 Q. Did you come to an understanding
7 that Mr. McConnell was one of those two other
8 members?

9 A. Yes.

10 Q. And there's no indication that
11 Mr. McConnell was going to support Mr. Battle,
12 he was another member considering running for
13 office and didn't because of intimidation?

14 A. My understanding, Tim McConnell was
15 considering running for an office on his own.

16 Q. You continue, I asked Brother Battle
17 if these two members would be willing to talk
18 to me about their experiences. At first,
19 Brother Battle told me that it was not likely
20 that they would talk to me because of fear of
21 reprisal from sitting officers, but he would
22 contact these members to see if they would be
23 willing to speak to me.

24 Do you recall Mr. Battle telling you
25 that?

1 A. Yes.

2 Q. Was it of concern to you that these
3 members wouldn't talk to you because they
4 feared reprisal from officers?

5 A. I didn't know if it was true.

6 Q. And other than asking Mr. Battle,
7 did you do anything on your own to determine
8 who these two other members who considered
9 running but were intimidated out of running
10 were?

11 A. I don't know what I would have done.

12 Q. Could you have sent a communication
13 to Local 98 members asking them to come
14 forward?

15 A. No. I don't think that would have
16 been the procedure.

17 Q. Why not?

18 A. If they weren't coming forward now,
19 they wouldn't have come forward, I believe,
20 with a communication.

21 Q. And if they didn't come forward
22 because they feared reprisal from officers, is
23 that an okay thing?

24 A. If it was true, no, it's not.

25 MR. KURNICK: Objection. That

1 question is argumentative.

2 BY MS. DeBRUICKER:

3 Q. If members were fearful of coming
4 forward to speak to you out of fear of reprisal
5 from officers, is there anything you could have
6 done to ameliorate that fear?

7 A. I didn't know if it was true.

8 Q. So would you have had to confirm it
9 was true before you did anything to --

10 A. Yeah. I would have to find out who
11 it was. I mean, we're talking about a ghost.

12 Q. Are you saying there's nothing you
13 could have done to find out who it was?

14 A. I don't know of anything I could
15 have done. But I also believe -- and Bob's
16 going to yell at me -- but I also believe that
17 if they had a problem, they have to come
18 forward. I cannot hold their hand behind the
19 door all the time. If there is an issue, they
20 must come and stand up and say there is a
21 problem. I cannot track people down that don't
22 want to be tracked down.

23 Q. Does the international ever have
24 people report things anonymously, to your
25 knowledge?

1 A. All the time.

2 Q. What happens in those circumstances?

3 A. That is up to -- if it's assigned to
4 someone or -- that's up to President Stephenson
5 or the vice president to either try to track it
6 down or not.

7 Q. Do you understand not coming forward
8 because of fear of reprisal to be different
9 than just having nothing to say?

10 A. Do I understand the difference,
11 yeah, I personally understand the difference.

12 Q. And not coming forward because of
13 fear of reprisal, do you understand that to be
14 different than, nothing happened and
15 everything's fine?

16 MR. PODRAZZA: I'm sorry,
17 Counsel, that question was muddled, at least on
18 my end.

19 BY MS. DeBRUICKER:

20 Q. Do you understand not coming forward
21 because of fear of reprisal to be different
22 than someone thinking that nothing happened and
23 everything was okay?

24 A. Well, if nothing happened and
25 everything was okay, no one would come forward

1 for anything. I am confused with the question.

2 Q. Is it your understanding that these
3 candidates would not come forward because they
4 feared reprisal, not because they didn't think
5 any intimidation happened?

6 A. That's what Charles Battle's
7 contention was.

8 Q. In your first paragraph on the
9 second page, you indicate, Brother McConnell
10 announced his intention of running for office
11 to his friends and others on the job he was
12 working.

13 Do you recall Mr. McConnell telling
14 you that, specifically?

15 A. Yes, I do.

16 Q. Did he tell you who he told?

17 A. He just told me his friends on the
18 jobsite.

19 Q. Did he tell you why he didn't tell
20 more people?

21 A. No, he did not.

22 Q. Do you have notes of what Mr.
23 McConnell told you?

24 A. Yes.

25 Q. You write in your first paragraph,

1 he told you he was not running with a ticket.

2 Was that important to you in your

3 investigation?

4 A. No. But it was important to him.

5 Q. Did it make a difference to your

6 investigation as to whether members were

7 running as ticket or not?

8 A. No.

9 Q. In your second paragraph, you
10 describe a conversation that Mr. McConnell said
11 he had with Mr. Dougherty.

12 So you recall reviewing that?

13 A. I recall Tim McConnell telling me
14 that, yes.

15 Q. You begin, Brother McConnell said it
16 was about that time that he started to hear
17 that the sitting officers did not want him to
18 run for office.

19 Do you recall him telling you that?

20 A. Yes, he did tell me that.

21 Q. Why would sitting officers not want
22 him to run for office?

23 MR. PODRAZZA: Objection.

24 Calls for speculation and conjecture.

25 MR. KURNICK: I'll join in

1 that objection.

2 THE WITNESS: I don't know if
3 it's true.

4 BY MS. DeBRUICKER:

5 Q. Did you inquire with officers as to
6 whether they wanted Mr. McConnell to run for
7 office or not?

8 A. No, I did not.

9 Q. Why not?

10 A. Mr. McConnell did not want me to use
11 his name with anybody.

12 Q. You continue, Brother McConnell said
13 he got a phone call from Local Union 98
14 business manager John Dougherty, and they spoke
15 about 45 minutes about upcoming nominations.
16 Brother McConnell said that business manager
17 Dougherty did not directly threaten him not to
18 run for office, but the conversation made him
19 feel funny.

20 What do you recall about that
21 conversation with Mr. McConnell?

22 A. That's exactly what he told me. I
23 wrote that verbatim. He said that business
24 manager Dougherty did not directly threaten
25 him, it made him feel funny. Whatever that

1 definition is, I'm not sure.

2 Q. You're saying the words, feel funny,
3 were his words?

4 A. They were definitely his words.

5 Q. And the statement that business
6 manager Dougherty did not directly threaten him
7 not to run for office, were those
8 Mr. McConnell's words or yours?

9 A. They were Mr. McConnell's words.

10 Q. Do you distinguish between a direct
11 threat and an indirect threat in your
12 investigation?

13 A. I try to distinguish between a
14 perceived threat and a threat.

15 Q. And what's the distinction between
16 those things to you?

17 A. Again, threats are different for
18 different people. I mean, I don't know -- some
19 people are intimidated by some things and some
20 people are not. You know, an outright threat
21 is pretty easy to see, but Mr. McConnell said
22 he was not threatened outright, blatantly, he
23 just felt funny. Whatever that is, I'm not
24 sure. But he did say that he wasn't directly
25 threatened.

1 Q. Is there a certain kind of conduct
2 that you would consider an easily identifiable
3 threat?

4 A. I think there's quite a few conducts
5 that could be considered a threat, yes.

6 Q. Could that include threats of
7 violence?

8 A. It could, yes.

9 Q. Does it have to be a threat of
10 violence? Like, could a threat to somebody's
11 job be a direct threat?

12 A. Yes.

13 Q. Or a threat to their reputation,
14 could that be a direct threat?

15 A. Could be.

16 Q. Or threats to the job prospects of
17 one of their family members, could that be a
18 direct threat?

19 A. Could be.

20 Q. Your paragraph continues, this
21 conversation consisted of things like why
22 change officers when things are so good and
23 working well.

24 Why is that something you would make
25 note of?

1 A. I wanted to give the vice president
2 context of the phone conversation. The phone
3 conversation, I was told, went 45 minutes, but
4 I knew about two minutes of the conversation.

5 Q. You continue, Brother McConnell said
6 the only thing that could have been taken as
7 intimidation was business manager Dougherty
8 said, if you lose the election, it could be a
9 long three years.

10 Did you ask him what he meant by
11 that?

12 A. Yeah. He didn't know either. I
13 didn't know. That could be taken several
14 different ways.

15 Q. And you continue in that sentence,
16 not knowing exactly what that meant, it made
17 him reconsider running for office.

18 A. That was his testimony to me.

19 Q. Okay. So you understood him to be
20 saying that Mr. Dougherty's statement, that it
21 could be a long three years, whatever that
22 meant, made him reconsider running for office?

23 A. That's what he told me.

24 Q. The way you have it written, I want
25 to be sure I understand. Brother McConnell

1 said that that could be taken as intimidation?

2 A. Yes. He said that.

3 Q. Your next paragraph discusses a
4 gentleman named Jim Ryan. He is friends with
5 Mr. McConnell and you indicate, Brother
6 McConnell told me that business manager
7 Dougherty and Local Union 98 agent Brian Eddis
8 had a conference call with Jim Ryan regarding
9 Tim McConnell running for e-board and how that
10 may not be good for the local Union.

11 Do you recall Mr. McConnell sharing
12 that with you?

13 A. Yes.

14 Q. Did you come to recognize Mr. Ryan
15 as the employer that was referred to in your
16 email?

17 A. Yes.

18 Q. Did you contact Mr. Ryan?

19 A. No.

20 Q. Why not?

21 A. Again, Tim McConnell did not want me
22 to use his name in any conversations with
23 anyone. Quite honestly, I might have
24 reconsidered doing this report, but I thought
25 it was important to the vice president. And

1 when I did this report, I thought this report
2 would be between myself and the vice president
3 only. But when we were asked to submit that
4 report under subpoena, we had to.

5 Q. You follow that with, Brother
6 McConnell said there were no direct threats,
7 but, again, it made him feel uncomfortable.

8 Were those his words or yours?

9 A. They were his.

10 Q. You continue, Brother McConnell told
11 me that even though there were no direct
12 threats, he felt that it would be best for him
13 not to run for office. It was best for him not
14 to run for office.

15 Did you take that to mean it was the
16 calls from Mr. Dougherty to him and to Mr. Ryan
17 that caused him to think he shouldn't run for
18 office?

19 A. I think he just came to the
20 conclusion that he wasn't going to run.

21 Q. Are you saying that he didn't make a
22 connection between the two?

23 A. I don't know if he did.

24 Q. Did you ask him?

25 A. No. Not directly, no.

1 Q. Why not?

2 A. At the time, I didn't think it was
3 relevant.

4 Q. Because wasn't that the concern,
5 that he was intimidated out of running?

6 A. Yeah. But he told me he really
7 wasn't directly threatened, he just felt funny.
8 If he told me he was directly threatened in
9 some way, it would have maybe been different.

10 Q. Would he have had to have used the
11 words directly threatened?

12 A. No. I know a direct threat.

13 Q. You continue, Brother McConnell said
14 his Brother-in-law was a Local Union 98
15 apprentice, and he was good friends of Par 4
16 Electric owner Jim Ryan. And even though there
17 were no direct threats, he was worried there
18 might be some reprisal against himself and his
19 friends and family if he continued to pursue
20 office.

21 Do you recall Mr. McConnell saying
22 that to you?

23 A. Yes.

24 Q. Worried there might be some reprisal
25 against himself and his friends and family if

1 he continued to pursue office?

2 A. His words.

3 Q. And did you consider that to be
4 potential interference or violation of the
5 LMRDA?

6 A. I considered that to be his opinion.

7 Q. Was that of concern to you?

8 A. In what way?

9 Q. That someone was concerned that
10 there might be reprisal against himself or his
11 friends and family if he pursued office.

12 A. Quite honestly, there's members -- I
13 mean, not all of them tell the truth. And
14 quite honestly, sometimes they feel they can't
15 voice their opinion to anyone. It's just Tim
16 McConnell's opinion. I can't tell you how Tim
17 was feeling. I just thought it was relevant
18 for the vice president to know Tim McConnell's
19 opinion on how he felt. Real or not, I thought
20 it was relevant to the vice president getting a
21 feel of the entire situation.

22 Q. Did you contact Mr. Dougherty about
23 the conversation Mr. McConnell says he had with
24 him?

25 A. I did not.

1 Q. Why not?

2 A. I promised Tim McConnell I would
3 not. I actually told Tim McConnell I was going
4 to call, if he would allow me, I was going to
5 call and interview business manager Dougherty
6 on the issue. And he made me promise that I
7 would not do that. So I did not.

8 Q. Did you do anything else to
9 investigate what Mr. McConnell told you?

10 A. No, I did not.

11 Q. Why not?

12 A. Mr. McConnell -- if you scroll down
13 to the end of the report, I think it states
14 that he just wanted this over with, and he
15 didn't want to pursue any type of charge or any
16 kind of complaint. So I took him for his word.

17 Q. Does a member have to pursue a
18 formal protest for you to investigate these
19 kinds of allegations of intimidation?

20 A. That's the only way I would know
21 about the allegations.

22 Q. What if you learn of conduct during
23 the course of an investigation?

24 A. I would report it to the
25 international office. If they see it fit for

1 me to investigate it, I would. I don't
2 investigate anything without being told to.

3 Q. Did you report what Mr. McConnell
4 shared with you to the office?

5 A. The report right there, yes. I sent
6 that to the vice president.

7 Q. Does a member have to pursue a
8 formal protest for the international to
9 investigate a violation of the LMRDA?

10 A. We wouldn't know it if no one would
11 protest it. We wouldn't know if there was a
12 violation.

13 Q. We just talked about information you
14 would come across over the course of an
15 investigation when there was no protest.
16 What's happens then?

17 A. I would report it as I did. This
18 report was, again, really never supposed to see
19 the light of day except for me and my boss.
20 And because I felt that it was important for
21 him to know what was going on here. And Tim
22 McConnell had me promise not to pursue
23 anything.

24 If he would have said, pursue it,
25 and write the vice president a letter, it would

1 have been different.

2 Q. Why?

3 A. Because I could have contacted the
4 people he didn't want me to contact. And I
5 respected his wishes.

6 Q. Did the conduct Mr. McConnell
7 described, assuming it was true, count to you
8 as a potential threat of reprisal?

9 A. He told me he felt funny. That's
10 all I can conclude.

11 Q. Well, he described a conversation
12 and he described words used. Did the conduct
13 he described count to you as a potential threat
14 of reprisal?

15 A. I wasn't there, I didn't hear the
16 context of it. I honestly cannot say yes or
17 no.

18 Q. Did you determine conclusively there
19 were no threats of reprisal to Mr. McConnell?

20 A. Again, I didn't determine -- I was
21 not there. I didn't have enough information, I
22 was not there to determine if there was or not.

23 Q. And you didn't investigate it?

24 A. I investigated as far as this report
25 concludes.

1 Q. Do you have any reason to believe
2 that the conduct Mr. McConnell described didn't
3 happen?

4 A. Speaking for me, no, I believe what
5 he told me was pretty accurate.

6 Q. You didn't have a reason to
7 disbelieve him; did you?

8 A. No. I did not -- Tim McConnell?

9 Q. Correct.

10 A. Okay.

11 Q. Based on your conversations with
12 Mr. McConnell, did you reach a conclusion as to
13 why he did not seek nomination?

14 A. No, I did not.

15 Q. I'll show you what we will mark as
16 Kieffer 8, I believe.

17 (Deposition Exhibit No. 8 was
18 marked for identification.)

19 Q. Mr. Kieffer, I'll ask you some
20 particular questions about this in a minute.
21 But do you recognize these notes?

22 A. Yes, I do.

23 Q. Are these your notes?

24 A. Yes, they are.

25 Q. It looks like dated July 22, 2020;

1 is that right?

2 A. Yes.

3 Q. Okay. Do you recall taking any
4 additional notes?

5 A. No.

6 Q. Is it your understanding that this
7 might be the extent of your notes regarding
8 your conversations with Mr. McConnell?

9 A. Yes, it is.

10 Q. And you have written, a buddy that
11 owns a company talked Timmy out of running.

12 Do you recall what was said that
13 prompted you to write that?

14 A. Yeah. It was in my report.

15 Q. Okay.

16 A. The Par 4, Ryan. That was the
17 buddy.

18 Q. Okay. And the message was to talk
19 Mr. McConnell out of running?

20 A. That's what Tim said, yes.

21 Q. And you write down, did not run
22 because they will repr -- maybe this is --

23 A. I wrote it so quickly. It was a
24 reprisal.

25 Q. I would cringe at the thought of

1 anyone looking at my notes.

2 A. Yeah. I wasn't happy when Bob made
3 me give these up.

4 MR. KURNICK: Randy, it's the
5 U.S. Attorney who made me make you give these
6 up.

7 THE WITNESS: I know that,
8 Bob. I know that. But you made me do it,
9 though, directly.
10 BY MS. DeBRUICKER:

11 Q. But is that the essence of what
12 Mr. McConnell shared with you?

13 A. Yes.

14 Q. And your next words were, was
15 scared. Do you recall him saying that?

16 A. I don't think he -- I don't recall
17 him saying that. That might have been me.
18 That might have been my thoughts because these
19 notes are not verbatim, they come out of my
20 head so I remember how to write the report.

21 Q. Okay. So that could have been your
22 take?

23 A. I could have written that, and it
24 should have been a question mark, you know, was
25 he scared? I don't remember him saying he was

1 scared.

2 Q. You have written here, no complaint,
3 does not want to file a complaint with lots of
4 what look like exclamation marks; is that
5 right?

6 A. Yes. He was very adamant that I
7 didn't tell anybody about what he was talking
8 to me about.

9 Q. And could you have reported what he
10 was telling you about without using his name?

11 A. I don't know what the point would
12 have been.

13 Q. If the conduct was of concern, does
14 it matter what his name was?

15 A. I believe, that for proof that it
16 was true.

17 Q. This looks like Tim McConnell 7-27,
18 LM 10:19. Do you know what that indicates?

19 A. Yeah. I left a message for him to
20 call me back.

21 Q. You have a note here, don't want me
22 talk to John D. What does that mean?

23 A. John Dougherty. He did not want me
24 to talk to John Dougherty, at all.

25 Q. Did you talk to anybody else about

1 whether you should talk to John Dougherty?

2 A. No.

3 Q. Why not?

4 A. I promised Tim McConnell it was
5 between he and I.

6 Q. Do you know of any other locals who
7 regularly have no elections or have elections
8 by acclamation rather than by actual voting?

9 A. Yes.

10 Q. Is it a common thing?

11 A. I would say 50/50 in my locals.

12 Q. In the local you're a member of, are
13 there usually contested elections?

14 A. They're usually contested. Certain
15 offices are contested more than others.

16 Q. Do you recall the last time Local 98
17 had a contested election? And by contested, I
18 mean, more than one person running for an
19 office.

20 A. That would be when Ken Rocks ran.

21 Q. Okay. And prior to that time, do
22 you recall when the last one was?

23 A. That would go back to about 1993
24 when John Dougherty became business manager.

25 Q. Do you have an understanding as to

1 why Local 98 doesn't have contested elections
2 very frequently?

3 A. They're lucky.

4 Q. Why are they lucky?

5 A. Because when you're the business
6 manager, you don't want anyone running for your
7 job every three years.

8 Q. Is wanting to avoid the cost of an
9 election a valid reason for wanting to avoid a
10 local election?

11 A. Nobody really wants an election if
12 everything is okay. The cost is always -- and
13 I'm speaking for myself and my home local --
14 when I was running for business manager, you
15 never want to spend money, you always want to
16 save money. But I don't think that cost has
17 anything to really do with a true blue
18 election.

19 Q. Are contested elections considered
20 detrimental?

21 MR. KURNICK: By whom? And if
22 it's not by him, then you're asking him to
23 speculate.

24 THE WITNESS: I'll speculate
25 and say I don't think so.

1 BY MS. DeBRUICKER:

2 Q. Can you think of an incentive or a
3 good reason not to have an election?

4 A. If nobody's running, if it's
5 uncontested.

6 Q. Any other reason?

7 A. No.

8 Q. If a local didn't conduct
9 nominations, would that be of concern to you?

10 A. If they didn't conduct nominations
11 per their bylaws, yeah, I would wonder why. I
12 would find out why.

13 Q. When we touched on the constitution
14 and the LMRDA at the beginning of our
15 conversation today, we discussed that the IBEW
16 constitution requires that members must be in
17 good standing in order to run for office. Do
18 you recall that?

19 A. Yes.

20 Q. And is that your understanding of a
21 requirement to be able to be nominated for
22 office?

23 A. It is.

24 Q. It's my understanding, unless it's
25 some unusual circumstances, you need to be a

1 member in good standing for at least two years;
2 is that right?

3 A. That is correct.

4 Q. Does the international, in your
5 understanding, impose any additional
6 qualifications that candidates must have in
7 order to get nominated?

8 A. I don't think so. But I think the
9 LMRDA does not allow felons to run.

10 Q. The candidate doesn't need to be
11 running on a ticket to be nominated; do they?

12 A. That is correct.

13 Q. And a member does not have to meet
14 any financial qualifications to seek
15 nomination; right?

16 A. No.

17 Q. It's not a requirement that they
18 have a campaign war chest before they're
19 nominated?

20 A. No.

21 Q. The candidate does not have to have
22 a dispute with the local in order to seek
23 office; do they?

24 A. No.

25 Q. And having a dispute with management

1 wouldn't disqualify a member from being
2 nominated; right?

3 A. Having a dispute with the officers
4 or management?

5 Q. I'll say the incumbent officers.

6 A. No.

7 Q. A member doesn't have to attend a
8 certain number of meetings in order to be
9 nominated; do they?

10 A. No.

11 Q. A member doesn't have to attend a
12 certain number of Labor Day parades in order to
13 be nominated; do they?

14 A. No.

15 Q. A member doesn't have to have a big
16 chance of winning in order to be nominated; do
17 they?

18 A. No.

19 Q. During your investigation of
20 Mr. Battle's internal protest, did anyone from
21 the government contact you?

22 A. Personally, no.

23 Q. Or in connection with your work, did
24 anyone from the government contact you during
25 your investigation of Mr. Battle's internal

1 protest?

2 A. I think we had a contact with the
3 Department of Labor; correct?

4 MR. KURNICK: As you know, he
5 was interviewed by the Department of Labor.
6 And at some point, the IBEW received a subpoena
7 from your office, but I believe that was after
8 his investigation had been completed. Again,
9 I'm not sure. We'd have to go back and look.
10 BY MS. DeBRUICKER:

11 Q. Mr. Kieffer, do you have any
12 specific recollection of someone from the
13 government contacting you while you were
14 investigating Mr. Battle's internal protest?

15 A. No.

16 Q. Did anyone from the government try
17 to influence your investigation of Mr. Battle's
18 protest?

19 A. No.

20 Q. Did anyone from the government try
21 to influence the outcome of your investigation
22 of Mr. Battle's protest?

23 A. No.

24 Q. Do you know who Michael Coppinger
25 is?

1 A. I heard the name, but I do not know
2 him.

3 Q. In what context did you hear the
4 name?

5 A. I read the name on the court
6 filings.

7 Q. Other than reading the court
8 filings, at any point, did you learn of any
9 alleged attempt by Local 98 to pressure Michael
10 Coppinger out of seeking nomination in the June
11 2020 election?

12 A. No, I did not.

13 Q. You mentioned that you were aware of
14 an internal election protest filed by Mr. Rocks
15 in about 2014; is that right?

16 A. I think so, yes.

17 Q. That was resolved before you did an
18 investigation; correct?

19 A. That's correct.

20 Q. Did you have any involvement with a
21 protest submitted by Mr. Rocks relating to a
22 decision by Local 98's trial board to fine him
23 \$50,000?

24 A. I did, but it had nothing to do with
25 the election that we're talking about.

1 Q. Right. Did you have any involvement
2 with that protest?

3 A. Yes.

4 Q. And did you investigate that
5 protest?

6 A. I started an investigation of it,
7 yes.

8 Q. Did you complete that investigation?

9 A. No.

10 Q. Why not?

11 A. Because it was resolved before I
12 completed it. The charges were dropped.

13 Q. Do you recall whether the two
14 protests were resolved together or if they were
15 separate?

16 A. They were separate.

17 Q. Did you have any involvement in the
18 resolution of Mr. Rocks' election protest?

19 A. No.

20 Q. Did you consider Mr. Rocks' protest
21 in your evaluation of Mr. Battle's protest?

22 A. Excuse me? I didn't hear that.

23 Q. Did you consider Mr. Rocks' election
24 protest in your evaluation of Mr. Battle's
25 protest?

1 A. No.

2 Q. Are there things you have learned
3 since the conclusion of your investigation of
4 Mr. Battle's protest that you think would have
5 been important for you to know during your
6 evaluation of the protest?

7 A. No.

8 Q. If, in fact, Mr. Battle submitted a
9 nomination form, would that have been important
10 for you to know during your investigation?

11 A. Yes.

12 Q. If Local 98 required nominations to
13 be made in person at the June 2020 election,
14 would that have been important for you to know?

15 A. It would have been a stipulation of
16 nominations. It would have certainly been a
17 part of my investigation.

18 Q. When you say it would have been a
19 stipulation of nominations, what do you mean?

20 A. If they said you had to be there to
21 get nominated, that would be how they designed
22 to do their nominations this year. The
23 Local 98 executive board, they designed the
24 nomination process. I did not.

25 Q. But if they required the nominations

1 to be made in person, and didn't allow
2 nominations to be made in writing, would that
3 have been important for you to know in your
4 investigation?

5 MR. PODRAZZA: Counsel, this
6 has been asked can and answered.

7 THE WITNESS: Yes.

8 BY MS. DeBRUICKER:

9 Q. Would the fact that Local 98 sued
10 Mr. Battle for defamation have been important
11 for you to know in your investigation?

12 A. No.

13 Q. Why not?

14 A. It has no relevance to what I was
15 looking at.

16 MS. DeBRUICKER: That
17 concludes my questions. Mr. Podrazza, do you
18 have questions?

19 MR. PODRAZZA: I do.
20 Mr. Kieffer, are you prepared to go forward or
21 would you like to take a short break?

22 THE WITNESS: No. We can go
23 forward.

24 EXAMINATION

25 BY MR. PODRAZZA:

1 Q. All right. I only have a few short
2 questions for you. And I'm going to mark, as
3 Kieffer No. 10 [sic], a document that's been
4 produced by the Department of Labor. Local 98
5 00240. And I'll ask you to take a moment to
6 review it.

7 MR. PODRAZZA: Counsel, I
8 think you have to take yours down.

9 MS. DeBRUICKER: Just did
10 that. Thank you.

11 And if any of my colleagues need us
12 to scroll down or up or sideways for you, just
13 let us know.

14 (Deposition Exhibit No. 9 was
15 marked for identification.)

16 Q. So Kieffer No. 10 [sic] depicts two
17 emails; is that correct?

18 A. Yes.

19 Q. The first one is on June 23, 2020,
20 at 8:09 a.m., from Ms. Rizzi to you and
21 Mr. Welsh; is that correct?

22 A. That is correct.

23 Q. And do you see the reference to a
24 letter from Charles Battle, Local 98 appealing
25 and the current election cycle?

1 A. Yes.

2 Q. That's the election protest letter
3 that we reviewed earlier today; is that
4 correct?

5 A. That is correct.

6 Q. And that would be the letter -- I
7 believe it's dated June 16, 2020?

8 A. I believe that is the correct date.

9 Q. And then there's a second letter
10 that's referenced, one by Frank Haglash from
11 Local Union 98, regarding Local Union 98
12 leadership; correct?

13 A. Yes.

14 Q. And you have a response to receiving
15 those two letters which is above on Kieffer
16 No. 10 [sic]; is that correct?

17 A. Correct.

18 Q. And your response is, let's say,
19 north of 30 minutes after Ms. Rizzi sent her
20 email with the two letters to you; is that
21 correct?

22 A. Yes.

23 Q. I'd like to just go over your
24 response and if you can just clarify the
25 meaning of some of the representations that are

1 made in it; would that be okay?

2 A. Yeah. That's fine.

3 Q. You start out with, in my opinion,
4 this is an attempt from Haglash or whoever is
5 directing him to suck me into this issue and
6 attempt to go over the heads of others. He
7 doesn't know me very well, at all.

8 What did you mean by the reference,
9 or whoever is directing him to suck me into
10 this issue?

11 A. Well, I've got to clarify something.
12 If you scroll down to the first email, that's
13 how we get certified letters. People send
14 certified letters to me through the District
15 Office all the time. They were two separate
16 issues. That wasn't sent to me by one issue,
17 that was sent to me by Leslie who is the 3rd
18 District Office secretary, the office manager,
19 telling me that, hey, I received two letters
20 for you, here they are.

21 That email is not saying that these
22 two items are related. They're just letters
23 for me to read.

24 And then if you scroll back, if you
25 see, I just commented on Haglash. Haglash was

1 a member of Local 98 that was brought up on
2 charges. It was two separate incidents. One
3 is not married to the other one on that. I
4 just wanted to clarify.

5 Q. I appreciate the clarification.
6 What did you mean, however, with respect to the
7 Haglash letter, or whoever is directing him to
8 suck me into this issue?

9 A. Haglash was brought up on charges
10 with two or three other members. And they got
11 a -- the vice president made a decision on
12 their case. And it was a good decision for
13 them, but they also wanted some more -- you
14 know, they wanted a public apology, for
15 instance.

16 And when the vice president or
17 President Stephenson doesn't give a member the
18 answer they look for, they look for me to give
19 them a different answer. So they can suck me
20 into calling Vice President Welsh and saying,
21 oh, your rep said that I need a public apology.
22 And then they post it on websites and
23 everything like that.

24 What I'm saying in there is that
25 Haglash or whoever was with Haglash with these

1 charges was trying to drive a wedge between --
2 or, getting a different opinion from me than
3 the vice president already gave, if that makes
4 sense.

5 Q. It does. And if you go down, I
6 believe it's three lines, you say, now, it is
7 my belief that these letters are being sent by
8 someone beside himself.

9 There's a plural, letters. Does
10 that refer to the protest election letter by
11 Mr. Battle and separately Mr. Haglash's letter?

12 A. When I do these emails, I spell
13 check, saying, what are you trying to say. It
14 says, now that it is my believe these letters
15 are being the sent by someone -- when I say
16 letters, I'm talking about -- we had a letter
17 from Haglash and we had letters from other
18 people that were being charged also. We had
19 two people that protested the charge, one
20 person that pled guilty to the charge. So I
21 had three separate letters.

22 I'm saying the Haglash letter was
23 connected to other people. I wasn't
24 necessarily saying that it was connected to the
25 election protest.

1 Q. So the reference in your email at
2 8:44:34 a.m. is solely to the Haglash matter
3 and those associated with Haglash in that
4 matter?

5 A. Yes.

6 Q. Is there any reference whatsoever to
7 or meant to be a reference to the Battle
8 protest letter in addition to the Haglash in
9 your response to Ms. Rizzi? And I should say,
10 really, Mr. Welsh.

11 A. I was going to say -- because we
12 were in the middle of the charges. As you see,
13 it was just the Haglash and people that we were
14 getting that letter out to drop the charges.

15 MR. PODRAZZA: Thank you, sir.
16 Those are all the questions I have.

17 MR. KURNICK: I would like to
18 ask just two questions just to clarify two
19 things that Mr. Kieffer said before we finish.

20 EXAMINATION

21 BY MR. KURNICK:

22 Q. Randy, at the beginning of your
23 testimony, you said in an election case, when
24 an election protest is filed, the vice
25 president makes a recommendation. And I just

1 wanted to be clear, are you talking about
2 recommending something to somebody else or the
3 vice president making a decision on the
4 election protest itself?

5 A. It's the vice president making a
6 decision.

7 Q. And the only other question I wanted
8 to ask is, during the course of this
9 deposition, you described your conversations
10 with people. Were they, specifically, in
11 person or on the phone?

12 A. On the phone.

13 Q. Were all of them on the phone?

14 A. I believe they were.

15 Q. Okay.

16 A. And that was mainly due to the
17 pandemic.

18 MR. KURNICK: That's all I
19 have.

20 MS. DeBRUICKER: I have
21 nothing further. Mr. Kieffer, thank you for
22 your time.

23 THE WITNESS: No. Thank you.

24 THE REPORTER: Mr. Kurnick,
25 would you like a copy?

1 MR. KURNICK: Yes.

2 THE REPORTER: Mr. Podrazza,
3 would you like a copy?

4 MR. PODRAZZA: I would, yes,
5 please.

6 (At 1:54 p.m., the deposition
7 was concluded. Signature was not waived.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

- - -

I, Randy Kieffer, do hereby
certify that I have read the foregoing
transcript and it is a true and correct copy of
my deposition, except for the changes, if any,
made by me on the attached Deposition
Correction Sheet.

Date

1	ERRATA SHEET	REASON FOR
2	PAGE LINE	CHANGE / CORRECTION
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

4 I, Jonathan MacDonald, a notary public in
and for the Commonwealth of Pennsylvania, do
5 hereby certify that the witness, Randy Kieffer,
was by me first duly sworn to testify the
6 truth, the whole truth, and nothing but the
truth; that the foregoing deposition was taken
7 at the time and place stated herein; and that
the said deposition was recorded
8 stenographically by me and then reduced to
typewriting under my direction, and constitutes
9 a true record of the testimony given by said
witness.

IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal of office this 23rd
day of September 2021.

18
19
20
21
22
23
24
25

Ex. D

1 UNITED STATES DISTRICT COURT FOR THE
2 EASTERN DISTRICT OF PENNSYLVANIA
3

4 MARTIN J. WALSH,)
5 SECRETARY OF LABOR,)
6 Plaintiff) Civil Action No. 21-0096
7 V.)
8 LOCAL 98, INTERNATIONAL) VIRTUAL DEPOSITION OF
9 BROTHERHOOD OF) MICHAEL WELSH
10 ELECTRICAL WORKERS)
11 Defendant)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)

24 REPRODUCTION OF THIS TRANSCRIPT IS PROHIBITED
25 WITHOUT AUTHORIZATION FROM THE CERTIFYING
AGENCY

1 VIRTUAL DEPOSITION OF MICHAEL WELSH,
2 a Witness herein, called by the Plaintiff, for
3 examination, taken pursuant to the Federal
4 Rules of Civil Procedure, by and before
5 Jonathan MacDonald, a Court Reporter and a
6 notary public in and for the Commonwealth of
7 Pennsylvania, taken remotely via Zoom, on
8 Thursday, September 9, 2021, at 3:00 p.m., EDT.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 APPEARANCES

2 On behalf of the Plaintiff:

3 LAUREN DeBRUICKER, ESQ.
4 ASSISTANT UNITED STATES ATTORNEY
5 615 CHESTNUT STREET
6 SUITE 1210
7 PHILADELPHIA, PA 19106
8 215-861-8492
9 Lauren.DeBruicker@usdoj.gov

7 On behalf of the Defendant:

8 JOSEPH R. PODRAZZA JR., ESQ.
9 LAMB McERLANE P.C.
10 ONE SOUTH BROAD STREET
11 SUITE 1500
12 PHILADELPHIA, PA 19107
13 215-609-3170
14 Jpodrazza@lambmcerlane.com

13 On behalf of Michael Welsh:

14 ROBERT D. KURNICK, ESQ.
15 SHERMAN DUNN, P.C.
16 900 SEVENTH STREET, NW
17 SUITE 1000
18 WASHINGTON, DC 20001
19 202-785-9300

17 Also Present:

18 Anna Laura Bennett, Esq., U.S. Dept. of Labor

19 Joel Frank, Esq., Local 98

20 Will Trask, Esq., Local 98

21 Bill Josem, Esq., Local 98

22

23

24

25

1 I N D E X

2 WITNESS PAGE

3 Michael Welsh

4 By Ms. DeBruicker 6

5 By Mr. Kurnick 127

6

7 E X H I B I T S

8 EXHIBIT DESCRIPTION PAGE

9 1 Battle Nomination Form 47

10 2 Battle Internal

11 Election Protest 64

12 3 7/28/20 Kieffer Letter 68

13 4 7/24/202 Kieffer Letter 72

14 5 7/31/20 Decision 90

15

16

17

18

19

20

21

22

23

24

25

1 P R O C E E D I N G S

2 THE REPORTER: The attorneys
3 participating in this deposition acknowledge
4 that I am not physically present in the
5 deposition room and that I will be reporting
6 this deposition remotely.

7 They further acknowledge that, in
8 lieu of an oath administered in person, the
9 witness will verbally declare her testimony in
10 this matter is under penalty of perjury.

11 The parties and their counsel
12 consent to this arrangement and waive any
13 objections to this manner of reporting. Please
14 indicate your agreement by stating your name
15 and your agreement on the record.

16 MS. DeBRUICKER: Lauren
17 DeBruicker, Assistant U.S. Attorney for the
18 Secretary of Labor, and I agree to the terms.

19 MR. KURNICK: Robert Kurnick,
20 attorney for the Deponent, and I agree.

21 MR. PODRAZZA: Joe Podrazza,
22 for IBEW Local 98, acknowledge and consent.

23 MICHAEL WELSH, a Witness
24 herein, having been first duly sworn, was
25 examined and testified as follows:

1 EXAMINATION

2 BY MS. DeBRUICKER:

3 Q. Mr. Welsh, again, I'm Lauren
4 DeBruicker. I'm with the U.S. Attorney's
5 Office in Philadelphia. I represent the
6 Secretary of Labor in a civil action alleging
7 that Local 98 violated the Labor Management
8 Reporting and Disclosure Act of 1959 in
9 connection with its June 2020 election of
10 officers.

11 Before we get started, have you had
12 your deposition taken before?

13 A. Yes, I think I have over the years.

14 Q. Do you recall how many times?

15 A. Maybe one or two, not many.

16 Q. Do you recall when the last time you
17 had your deposition taken was?

18 A. I'm trying to think back. We had a
19 meeting at the beginning with one of the
20 counsel for this event, but I can't remember a
21 time for another one.

22 Q. I imagine you have spoken with
23 Mr. Kurnick about depositions, but just a few
24 points to consider as we go forward. It's
25 important that we speak one at a time. So if

1 you could do your best to let me finish my
2 question before you answer, even if you know
3 where I'm going, that will help our court
4 reporter keep a clear record. And I will do my
5 best to let you finish your answer before I ask
6 my next question. Does that make sense?

7 A. Yes.

8 Q. If you don't understand my question,
9 will you let me know?

10 A. Yes.

11 Q. If I'm at all unclear or if you
12 don't understand what I'm getting at, please
13 let me know. My goal is to make sure, again,
14 that we have a clear record, that you
15 understand what I'm asking before you answer;
16 okay?

17 A. Okay.

18 Q. And if at any point you don't hear
19 my question, will you let me know?

20 A. Yes.

21 Q. Whether my voice drops or we have a
22 technical glitch, I want to be sure, again,
23 that you hear and understand the full question
24 before answering; okay?

25 A. Okay.

1 Q. And if you answer my question, I'll
2 assume that you both heard it and understood
3 it; okay?

4 A. Okay.

5 Q. Are you represented by counsel
6 today?

7 A. Yes.

8 Q. And who is that?

9 A. Mr. Kurnick.

10 Q. Did you do anything to prepare for
11 today's deposition?

12 A. Just looked over the information
13 that we provided.

14 Q. And can you give me a general
15 description of what that was?

16 A. A few emails, Mr. Battle's
17 complaint, our answer back to him. Basically,
18 that was it.

19 Q. Did you meet with anybody to prepare
20 for today?

21 A. What do you mean, meet with
22 somebody?

23 Q. Did you confer with Mr. Kurnick
24 regarding today's deposition?

25 MR. KURNICK: We can agree

1 that he met with Mr. Kurnick to prepare for the
2 deposition.

3 BY MS. DeBRUICKER:

4 Q. Did you meet with anyone else to
5 prepare for the deposition?

6 A. No, I did not.

7 Q. Did speak with anyone from Local 98
8 regarding today's deposition?

9 A. No.

10 Q. Have you reviewed any of the
11 testimony given in the case to date?

12 A. What do you mean, testimony in the
13 case to date?

14 Q. There have been depositions taken.
15 Yours is not the first deposition.

16 A. No. I haven't seen any other
17 depositions.

18 Q. And is there any reason why you
19 couldn't provide complete and truthful
20 testimony today?

21 A. No. There's no reason why I
22 couldn't.

23 Q. You're not distracted by anything?

24 A. No.

25 Q. You're not on any medication that

1 affects your ability to recall facts clearly or
2 affects your memory at all?

3 A. No. Just, you know, being 63 that's
4 where sometimes -- if I'm wondering that
5 anymore.

6 Q. Mr. Welsh, can you give me a basic
7 sense of your educational background?

8 A. I graduated from the University of
9 Pittsburgh with an economics degree.

10 Q. And I understand you are employed by
11 the International Brotherhood of Electrical
12 Workers; is that correct?

13 A. That's correct.

14 Q. What is your position with the IBEW?

15 A. International Vice President of the
16 3rd District.

17 Q. And is the 3rd District a
18 geographic --

19 A. Yes, it is.

20 Q. And what does the 3rd District
21 cover?

22 A. Pennsylvania, New York, New Jersey,
23 and Delaware.

24 Q. How long have you served in that
25 role?

1 A. A little over four years.

2 Q. Did you have a position with the
3 international prior to that?

4 A. I was an international
5 representative.

6 Q. And for how long were you an
7 international representative?

8 A. 15 years.

9 Q. And did you have any other roles
10 with the international?

11 A. No, just those two.

12 Q. About when did you start working for
13 the international?

14 A. September of 2002.

15 Q. That was as a representative?

16 A. Yes.

17 Q. What were your general duties as a
18 representative?

19 A. I was actually an assistant to the
20 international vice president at that time. I
21 worked in the 3rd District Office. I also
22 worked with local unions, you know, help them,
23 serviced local unions with clients and various
24 grievances and whatnot.

25 Q. Did you work with Local Union 98, at

1 all, in that capacity?

2 A. No, I did not. I handled the
3 industrial side, basically.

4 Q. And can you give me a general
5 description of your role as international vice
6 president?

7 A. You know, basically, oversight and
8 support of the locals still. If a local needs
9 help with various issues, we have various
10 departments to be able to help them out. And I
11 steer them in that direction.

12 Q. What location do you work at?

13 A. I work in my office at 500
14 Cherrington Parkway, Coraopolis, Pennsylvania.
15 That's in Moon Township.

16 Q. Where are you joining us from this
17 afternoon?

18 A. I'm joining you from my spare
19 bedroom at home.

20 Q. Is anyone with you in the room
21 today?

22 A. No, they're not. I don't have
23 shorts on either. Just so you know that.

24 Q. No comment. Are you a member of a
25 local?

1 A. Yes, I Am.

2 Q. And what local are you a member of?

3 A. Local 459 out of Johnstown,
4 Pennsylvania.

5 Q. And when did you become a member?

6 A. 1976.

7 Q. Are you a member of any other
8 locals?

9 A. No.

10 Q. Is part of your job to investigate
11 or review protests from local union members?

12 A. Yeah. You know, they come to the
13 local office, I would assign a rep to
14 investigate, and then I'd make a decision off
15 of that.

16 Q. What kinds of protests are you
17 involved with?

18 A. Well, I mean, protest-wise, it's
19 usually just election protests. You know,
20 there might be a complaint of something else,
21 but a protest is usually something to do with
22 -- in regards to an election.

23 Q. Are there other kinds of protests or
24 are they strictly election?

25 A. In other cases, you might call them

1 different things, but as far as elections, it's
2 a protest. That's the way we look at it. We
3 handle complaints.

4 Q. What kind of complaints do you,
5 typically, see?

6 A. That's a full range. Somebody's not
7 happy with a coworker, somebody's not happy
8 with the leadership, somebody's not happy about
9 a certain event. I mean, there's all different
10 types of complaints that we might get in.

11 Q. And as IVP, are you involved in the
12 investigation of an election protest, or are
13 you just in a decision-making role?

14 A. I will usually assign a rep to do
15 the actual fact gathering.

16 Q. And how do election protests come to
17 you?

18 A. Well, they're supposed to come to us
19 after the election judge has had an opportunity
20 to answer any questions that there might have
21 been. If they're not happy with his decision,
22 then they come up to our office.

23 Q. Now, are they sent to you directly,
24 or do they go someplace else?

25 A. No, they usually come to the 3rd

1 District Office.

2 Q. Can you tell me how many locals you
3 would decide election protests for -- or, how
4 many locals for whom election protests would be
5 directed to you?

6 A. We have 108 local unions in the 3rd
7 District, so any election protest would have to
8 come through the office.

9 At first, the election judge would
10 have to have the opportunity to address the
11 question first. In some case, you know, they
12 answer them and that's all there is. It
13 doesn't get to us.

14 Q. Do you decide election protests for
15 other bodies within the union, for example, at
16 the district level or the international level?

17 A. No. My role would just be for the
18 local union.

19 Q. And are your duties shared with
20 anyone else, or are you the person?

21 A. No. They're not shared with anybody
22 else. They come to me for me to make that
23 decision.

24 Q. There's no one else within the
25 district who you share those responsibilities

1 with; is that fair to say?

2 A. No. I don't share them with anybody
3 else in the district. There are a lot of other
4 districts in the IBEW, so there are other vice
5 presidents that handle their own areas.

6 Q. Are you familiar with the basic laws
7 and policies of the IBEW?

8 A. Yes, I am.

9 Q. And are you aware of whether there's
10 a statement in there about the frequency of
11 protests regarding local elections?

12 A. I'm --

13 MR. KURNICK: I'm not sure I
14 understand that question. Can you try it
15 again, please?

16 MS. DeBRUICKER: I will.

17 BY MS. DeBRUICKER:

18 Q. All right. I'm going to share my
19 screen. Thank you for your patience. I'm
20 showing you a page of the IBEW basic laws and
21 policies. This is Page 43. And under
22 protested elections, it reads, since the
23 passage of the LMRDA, IBEW local unions in the
24 United States have had few protests of the
25 conduct of their elections filed with the

1 Secretary of Labor.

2 Do you see that?

3 A. Yes, I see that.

4 Q. Okay. Does that ring a bell, had
5 you noted that fact before?

6 A. Well, I read this before, so I don't
7 know what you mean by if I noted it.

8 Q. Given your experience at IBEW, is
9 that an accurate statement from your --

10 A. Oh, yes. I mean, we had 55
11 elections one year and I think we had, maybe,
12 two complaints out of 55. We have very few
13 election protests. Like I said, that gets to
14 us -- I don't know if they're discussing things
15 back home, you know, I can't speculate on that,
16 but as far as what makes it up to our level.

17 Q. Can you give me a sense as to how
18 many officer elections are held by IBEW local
19 unions in a given year?

20 A. It varies depending on what year.
21 One year, we had 55, another year we had 34,
22 and another year, we had 19. So it adds up to
23 108. But they're all staggered, it's not all
24 one year. One year we do have, like, 55
25 though, which is a heavy load. But like I

1 said, out of that 55, we might have had one or
2 two protests, so no heavy load or anything like
3 that. Not a lot.

4 Q. Are you aware of the number of local
5 election protests of the conduct of IBEW local
6 elections that are filed with the Secretary of
7 Labor in a given year?

8 A. I don't think there's been many at
9 all. I don't know of any myself, to tell you
10 the truth.

11 Q. And if they're filed with the
12 Secretary of Labor, do you get notice of that?

13 A. I'm pretty sure I get notice, and I
14 think the international might get notice, too.
15 I would have to defer to Bob on that one, I
16 think, because I'm not exactly sure.

17 Q. About how many protests or
18 complaints would you say you've decided?

19 A. In my four years, a little over four
20 years, maybe half a dozen, if that.

21 Q. And within that, how many of those
22 are election protests?

23 A. Oh, that's what I thought you were
24 referring to.

25 Q. Okay. So if we were to include

1 election protests and the other kinds of
2 complaints that you mentioned, about how many
3 decisions on those would you make in a typical
4 year?

5 A. You're talking about complaints to
6 -- that's a little bit different than an
7 election protest. So complaints, we answer
8 them in various ways. Sometimes we have an
9 answer to correct an issue, if there's an
10 issue.

11 So it's night and day. I mean, it's
12 two different scenarios. Election protests are
13 very few. You know, we get complaints on a
14 regular basis that we address. You know, we're
15 constantly addressing some type of complaint.
16 So it's -- I couldn't give you a number, to
17 tell you the truth.

18 Q. Of the election protests you've
19 considered, in what proportion of those have
20 you found a violation?

21 A. Just a couple. I mean, probably
22 very few.

23 Q. Are there election protests where
24 you have found a violation?

25 A. I don't know if it's a violation so

1 much. I think there was some confusion with
2 some of the ballots, that things were not
3 handled right. But, you know, we've had
4 elections where we suggest that they rerun
5 them, and that's what the local's done. I
6 don't think that even got up to violation or
7 not because we solved the issue, basically, in
8 the district.

9 Q. Of the election protests you've
10 considered, can you say how many resulted in a
11 rerun of the election?

12 A. I think there were two.

13 Q. Have you previously decided any
14 election protest from Local 98, prior to the
15 one we're discussing today that was filed by
16 Charles Battle?

17 A. No, I haven't.

18 Q. How many individuals are available
19 and authorized to investigate the protests that
20 you are responsible for deciding?

21 A. Well, basically, all my reps are
22 able to go and investigate a complaint or a
23 protest.

24 Q. How many reps do you have?

25 A. In my district, it would be 12.

1 Q. And when an election protest comes
2 in, how do you decide who to assign to it for
3 investigation?

4 A. Well, I assign a service rep. Each
5 of my reps have certain local unions they're
6 assigned to. So whoever is assigned to that
7 local would be the one to investigate it.

8 Q. When you decide a local election
9 protest, what are you looking for?

10 A. Well, you see what the protest was
11 and then you try to go out and investigate
12 those to find the facts around what the basis
13 of the protest were. So it all depends on what
14 somebody is protesting, what they're saying.
15 That's what you base it off of when you're
16 looking at it.

17 Q. And do you look for potential
18 violations of the IBEW constitution?

19 A. Yes. We look for that, yes.

20 Q. And potential violations of the
21 bylaws?

22 A. Usually, that's another thing we
23 look at. Yes.

24 Q. Do you look for violations of the --
25 what I'll call the LMRDA? Do you understand

1 what I'm referring to with that?

2 A. Yeah. I guess ours probably look
3 more or less into the local union bylaw and the
4 constitution. Now, I guess they could look at
5 the -- because we use materials that we put out
6 from the LMRDA information. So I guess
7 sometimes we'll look at that, too.

8 Q. What happens if the international
9 finds the protest to be valid or that a
10 violation occurred?

11 A. It depends what's the issue. I
12 mean, in some cases, we might rerun the
13 election. Basically, that's what it would come
14 down to for the most part, you know, was it
15 something egregious enough that it wasn't a
16 fair election, that you have to rehold the
17 election.

18 Q. If a violation is found, do you make
19 a recommendation to the local, do you issue a
20 directive to the local, how does that work?

21 A. If something was that bad that they
22 needed to rerun it, you know, we would direct
23 the local to rerun the election. Yes, we
24 could.

25 Q. Are there other corrective measures

1 that you would direct a local to take besides
2 rerunning an election?

3 A. I guess it would depend on what the
4 issue is. I mean, sometimes, maybe it wasn't a
5 violation but it may be something that we would
6 suggest maybe making a change. So I would have
7 to say it would depend on what the issue is.

8 Q. Who decides what an appropriate
9 remedy is when there's a violation?

10 A. That falls back to me.

11 Q. Can you tell me, generally, how a
12 local election protest happens?

13 A. Well, basically, if a complaint
14 comes to the office, I would assign a rep to
15 look at, you know, what their claims are and
16 try to verify the facts on those claims or find
17 out the issues around those facts.

18 Q. Is there sort of a process that the
19 international has for investigating local
20 election protests?

21 A. I don't know if it's a process, but
22 it's the way we've always done it. I mean,
23 basically, if somebody complains and files a
24 protest, you see what their protest is and then
25 look for that facts relevant to what the

1 protest is.

2 Q. How does the international decide
3 who to talk to when investigating a protest?

4 A. Well, usually, you start off with
5 the person making the protest.

6 Q. Is there anyone IBEW must talk to in
7 investigating a protest?

8 A. I guess you have to talk to the
9 person making the protest and start there.

10 Q. Are there any other investigative
11 steps that IBEW must take in investigating
12 protests?

13 A. I'm not sure I understand that
14 question.

15 Q. Are there steps that are required in
16 investigating a protest or does it just depend
17 on what the protest is and where the
18 investigation takes you?

19 A. Yes. Basically, that.

20 Q. When an election protest comes in,
21 whose burden is it to prove that there was a
22 violation? If there's an alleged violation,
23 whose burden is it to prove that?

24 A. Well, it would be the service rep
25 doing the investigation. He would determine

1 the facts, and he would present the information
2 back to me. Then I would have to review the
3 facts, and then I would make a determination.

4 Q. And is there a certain standard you
5 review the facts under?

6 A. Just looking if there's a violation
7 against the bylaws and constitution.

8 Q. And is there sort of a weight of the
9 evidence? Does it have to be more likely than
10 not that a violation happened? Does it have to
11 be beyond a reasonable doubt that the violation
12 happened?

13 A. Well, when you say, beyond a
14 reasonable doubt, I guess it would have to be,
15 you know, the outcome of the election, too.
16 Was the information or was the act that
17 somebody did, did it affect the outcome of the
18 election. That's something you look at, too.

19 Q. And do you look at whether it
20 definitively did affect the outcome of the
21 election or whether it could have impacted the
22 outcome of the election?

23 A. I think you're asking -- you know,
24 you're, basically, you're making a claim that
25 it did affect the election. I mean, somebody

1 makes a protest, and they lost by 500 votes, I
2 mean, at that point, you have to weigh whatever
3 the facts are, whatever the protest is, to
4 determine if it would affect the outcome.

5 Q. So if someone would have
6 statistically lost anyway, would you find that
7 there was no election violation?

8 A. I can't necessarily -- we still
9 might have found that there was a violation,
10 but it didn't affect the outcome of the
11 election. I guess it would be depending on how
12 you wanted to look at it, depending on the
13 circumstances.

14 Q. And if you find a circumstance where
15 there was a violation but you find that it
16 didn't affect the outcome of the election, what
17 happens?

18 A. Just like you said, that would be
19 the response back to the person filing the
20 protest. That, you know, we determined that
21 there might have been something not totally
22 correct, but the thing is, it wouldn't affect
23 the outcome of the election. And that's what
24 we would answer back.

25 Q. So if it wouldn't have affected the

1 outcome of the election, do you issue any
2 directives to the local? Is there any remedy?

3 A. Well, when the election protest
4 comes in and we answer it, the local gets a
5 copy of that answer. So they would see what
6 transpired and possibly -- if there was some
7 type of thing that they did slightly wrong, and
8 we thought it was wrong, we would let them
9 know.

10 Q. What happens in that circumstance?

11 A. It depends. If it was something
12 against -- maybe they need some type of change
13 to their bylaws. I don't know. It depends on
14 what the facts are around the particular case,
15 you know, on the remedy might be.

16 Q. Is directing a change in a local's
17 bylaws among the things that you could
18 recommend?

19 A. If there was something unclear in
20 the bylaws that led to the problem, we may make
21 that recommendation.

22 Q. In deciding a local election
23 protest, are there any presumptions -- in
24 criminal law, we talk about someone being
25 presumed innocent until proven guilty. Are

1 there any, sort of, presumptions that IBEW
2 works with in investigating an election
3 protest?

4 A. No, not that I'm aware of. I mean,
5 we don't presume anything, we just go out and
6 try to gather the facts and look at the facts.

7 Q. Is anyone given the benefit of the
8 doubt, either the member or the local?

9 A. It's hard to say. I don't know what
10 you mean, give them the benefit of the doubt.
11 Like I said, if something wouldn't have
12 affected the outcome of the election, it
13 wouldn't affect the outcome. Don't know about
14 something being the benefit of the doubt.

15 Q. When you decide a local election
16 protest, what is your relationship to the
17 local, do you consider yourself like a
18 prosecutor investigating a charge or defense
19 counsel defending against a charge?

20 A. No. I'm not an attorney, and I'm
21 not a defense counsel or anything like that, or
22 a prosecutor. I'm just, basically, there --
23 we've got an election protest, just come in and
24 gather the facts and just determine the outcome
25 through those facts and determine the decision.

1 Q. Do you consider yourself neutral in
2 that process?

3 A. I think we try to be, as much as
4 possible. Yes.

5 Q. When IBEW investigates a local
6 election protest, what is the local's role in
7 that process, if any?

8 A. It would depend probably on what
9 that protest has to do with. You know,
10 sometimes maybe we need some additional
11 information, so the local would be requested to
12 provide it. It would all depend on what the
13 protest is.

14 Q. Does the local have any burden to
15 disprove allegations that are made in a
16 protest?

17 A. I'm not sure I understand that.

18 Q. Is there a certain showing that a
19 local needs to meet in order to defeat a
20 protest?

21 A. No. Usually, we just go in and look
22 at the facts, it's not so much defeating the
23 protest. It's, basically, you know, we ask for
24 the information, look at the facts that the
25 reps report, and make a decision off of that.

1 Q. Can you give me a sense of what
2 rules and authority applies to union elections,
3 what governs union elections?

4 MR. KURNICK: Can I ask you,
5 are you asking union elections generally or
6 just in the IBEW?

7 MS. DeBRUICKER: Just in the
8 IBEW.

9 MR. KURNICK: Thank you.

10 THE WITNESS: Can you repeat
11 the question, please?

12 BY MS. DeBRUICKER:

13 Q. Sure. Can you give me a sense as to
14 what rules or regulations apply to IBEW officer
15 elections? For example, does the IBEW
16 constitution have separate --

17 A. The constitution and the bylaws.
18 Those would be the two main things that we
19 follow.

20 Q. By bylaws, are those IBEW bylaws or
21 the local's bylaws?

22 A. The local union bylaws.

23 Q. I still have on my screen the IBEW
24 basic laws and policies. Do they speak to
25 election requirements as well?

1 A. Yeah. I think this goes through
2 pretty well, another screen, and runs down
3 through, you know, how elections are to be
4 handled. You know, time, date, place. It
5 gives you all of that stuff. And then,
6 usually, in the bylaws, it spells it out, how
7 the elections are to be conducted, whether in
8 person, by mail.

9 Q. Are the IBEW basic laws and policies
10 considered binding, rules that are binding all
11 locals?

12 A. Yes. They would be because they are
13 an extension of the constitution.

14 Q. I've seen reference to an IBEW local
15 union election guide. Are you familiar with
16 that?

17 A. Yes.

18 Q. And is that something that would be
19 considered binding on locals or is that
20 considered as guidance, as far as you know?

21 A. Those are recommendations that --
22 you know, we can make recommendations, I can't
23 say it's necessarily binding on all points of
24 it. Because local unions do have some
25 flexibility, that maybe their bylaw address

1 something a little bit different. But that's
2 the general guideline for people to follow.

3 Q. Is the IBEW local Union election
4 guide something that's available to members?

5 A. If they request it, they can see it,
6 yes.

7 Q. If the local union election guide is
8 not strictly binding, if it's recommendations,
9 is that a resource that a member should rely on
10 in determining whether election processes are
11 being followed?

12 A. I guess it could. I mean, it's not
13 like there's a lot of deviation. But I mean,
14 some locals have some things that might not be
15 totally the same as in the guide. I mean, it,
16 basically, spells out the process to run an
17 election. So, you know, it gives somebody some
18 general knowledge of how a general election is
19 run.

20 Q. And are you familiar with Local 98's
21 bylaws?

22 A. I can't say that I'm familiar with
23 them as far as inside and out.

24 Q. Are they something that you would
25 have looked at in your decision relating to

1 Mr. Battle's election protest?

2 A. Yeah, to find out if they followed
3 what is in their bylaws, as far as making sure
4 they were followed.

5 Q. And is that something you would do
6 personally, or is that something you would rely
7 on your representative to do as he did the
8 investigating?

9 A. Usually, the rep would be looking to
10 verify those facts against the bylaws, yes.

11 Q. And would that be something you
12 would, typically, also do yourself or would you
13 rely on the representative?

14 A. If he couldn't in his investigation,
15 I would possibly look at them, too, but you
16 know, most times, the rep, you know, spells
17 things out.

18 Q. Would you say you had a familiarity
19 with the LMRDA?

20 A. I have some familiarity with it,
21 yes.

22 Q. Did you have familiarity with the
23 provisions relating to members' rights in
24 connection with union elections?

25 A. Yes. I guess I would have to say

1 yes, I'm familiar with members' rights. Yes.

2 Q. And this case deals, specifically,
3 with Section 401(e) which provides that members
4 must be given a reasonable opportunity to
5 nominate candidates. Were you familiar with
6 that requirement, generally?

7 A. Yes, generally.

8 Q. And that members in good standing
9 must be allowed to run for office if they meet
10 the reasonable qualifications of the local?

11 A. Correct.

12 Q. And that members have the right to
13 vote for and support the candidates of their
14 choice without being subject to penalty,
15 discipline or improper interference or reprisal
16 of any kind?

17 A. Yes.

18 Q. Are you familiar with that
19 provision?

20 A. Yes.

21 Q. And are those things you keep in
22 mind when reviewing local election protests?

23 A. It depends on what the protest is,
24 as far as what's being protested.

25 Q. Mr. Welsh, I'm going to have you

1 look at this document here. Do you recognize
2 that document?

3 A. Yes.

4 Q. Are you able to see the screen
5 clearly?

6 A. I just have to adjust my laptop
7 because the print is a little bit small.

8 Q. If during the course of this you
9 need me to resize things, please let me know.
10 I want to be sure you can see what you need to;
11 okay?

12 A. Okay.

13 Q. Do you recognize this as the IBEW
14 constitution?

15 A. Yes.

16 Q. Would you say you're generally
17 familiar with its terms?

18 A. Yes, generally.

19 Q. I'm going to jump us to what is
20 Article 16 of the constitution.

21 A. Okay.

22 Q. And I'm going to direct your
23 attention to Section 10. Let me see if I can
24 make it a little bit bigger.

25 Section 10 begins, no member shall

1 be nominated for office unless he is present or
2 signifies his willingness in writing.

3 Is that a provision you're familiar
4 with?

5 A. Yes. Yes, I'm familiar with that.

6 Q. And what does that mean to you?

7 A. If a candidate wants to run for
8 office, he either shows up at the nomination
9 meeting and gets nominated, or he can submit
10 his request in writing should he wish to be
11 nominated for a position.

12 Q. So under the constitution, he can
13 either be present or indicate his willingness
14 in writing; is that right?

15 A. Correct.

16 Q. And moving down to Section 11 of
17 Article 16, the LU -- does that mean local
18 union?

19 A. Yes.

20 Q. The local union shall decide the
21 manner in which nominations and elections shall
22 be held and such shall be stated in the LU
23 bylaws.

24 A. Correct.

25 Q. So the local can, basically, decide

1 the manner in which nominations are made?

2 A. Yes.

3 Q. But they need to state them in their
4 bylaws; is that right?

5 A. Yes.

6 Q. And Section 11 continues, this shall
7 not be in conflict with the IBEW constitution.

8 What does that mean?

9 A. In your bylaws, you can't do
10 anything different than what the constitution
11 spells out.

12 Q. So the local has discretion to
13 design its nominations process as long as its
14 consistent with the constitution?

15 A. Correct.

16 Q. Let me go back to the basic laws and
17 policies. Under the section where it says
18 member nomination and voting eligibility, a
19 member must be present or signify in writing a
20 willingness to being a candidate prior to being
21 nominated to the local union office.

22 Is that consistent with the
23 constitution provision we just read?

24 A. Uh-huh.

25 Q. So either present in person or

1 signifying in writing?

2 A. Correct.

3 Q. And this is what I understand to be
4 the IBEW local union election guide. Does that
5 look familiar to you?

6 A. Yes.

7 Q. Under nominations, the second
8 paragraph reads, no member shall be nominated
9 for office unless he or she is present or
10 signifies his or her willingness in writing.
11 Again, consistent with the constitution?

12 A. Yes.

13 Q. And the written acceptance of a
14 nomination must be presented at the meeting
15 when nominations are held.

16 What's your understanding of what
17 that means?

18 A. If a person's not there when he's
19 nominated, he has to say that he'd take the
20 nomination. If so, if he would be nominated,
21 he should, you know, put it in writing.

22 So if he's not there, there should
23 be a letter with the local union saying, if
24 nominated, I will run for this position.

25 Q. A little bit further down in the

1 provision, it talks about the notice of the
2 election, a single notice shall be used for
3 notification of both nominations and elections.
4 The notice shall state the following.

5 And among what it lists are the
6 proper form and manner for nominations. Do you
7 see that?

8 A. Yes.

9 Q. Do you have an understanding as to
10 what proper form and manner for nominations
11 means?

12 A. I guess whether you have be there in
13 person to either self-nominate -- I'm not
14 exactly sure, you know, proper form and manner
15 for nominations. Because right below, it gives
16 you the date, time, place for elections; date,
17 time, place for nominations. Proper form? I
18 guess if the local union requires some type of
19 -- they have a form.

20 Q. Does it indicate that the notice
21 should tell you how nominations will be made?

22 A. Right.

23 Q. I'm asking, is that your reading of
24 it?

25 A. That would be my reading of it, yes.

1 Q. Under the terms that we just went
2 through with the constitution and the election
3 guide and the basic laws and policies, is there
4 anything that prohibits a member from
5 nominating him or herself?

6 A. No. There's nothing that prohibits
7 that.

8 Q. Under these terms that we just went
9 through, is there anything that requires
10 nominations be seconded?

11 A. No.

12 Q. Under the terms we just went
13 through, is there anything requiring that
14 nominations be made in person?

15 A. No. It says that you can nominate
16 in writing.

17 Q. Setting aside any particular
18 provisions that might be in the local's
19 particular bylaws, under these terms, how can a
20 member of an IBEW local be nominated for a
21 local union office?

22 A. He can either show up at the
23 nomination meeting and have somebody nominate
24 him, send a letter in that he wishes to be
25 nominated for a particular position.

1 Q. And other than that, does the IBEW
2 constitution specify the manner in which local
3 union officer nominations must be held?

4 A. I'm not sure I understand what
5 you're asking on that one.

6 Q. You just indicated that under these
7 terms, a member can nominate themselves, either
8 by being present at the nomination meeting or
9 signifying in writing their wish to be
10 nominated. And we saw those in the
11 constitution.

12 A. Correct.

13 Q. Other than those provisions, does
14 the constitution have any other specifications
15 as to the manner in which local nominations
16 must be held, as far as you're aware?

17 A. No.

18 Q. And, I think, as we read, the IBEW
19 constitution delegates most of that to the
20 local as long as it's consistent with the
21 constitution; is that right?

22 A. Correct.

23 Q. And the local is required to state,
24 in its bylaws, the manner in which the officer
25 nominations shall be held?

1 A. Yes. I mean, they usually have
2 guidelines and the bylaws and, usually, they're
3 reiterated when the nomination notice goes out.

4 Q. If the local has, in its bylaws,
5 that nominations must be made in person or by a
6 person present at the meeting, would you
7 consider that to be contrary to the
8 constitutional provision we just went through?

9 MR. KURNICK: Objection.
10 Calls for speculation and an inadmissible
11 opinion by the witness. Mike, even though I've
12 objected, sadly, you still have to answer
13 questions, unless I instruct you not to answer.

14 THE WITNESS: Could you repeat
15 the question for me?

16 BY MS. DeBRUICKER:

17 Q. Sure. If a local has, in its
18 bylaws, that nominations have to be made in
19 person, would you consider that to be contrary
20 to the IBEW constitution provision we just went
21 through?

22 A. Well, there's a provision in the
23 constitution that allows for somebody that's
24 not there to be able to submit a letter that
25 they'll accept nomination. So they would be

1 able to submit a letter requesting to be
2 nominated. They would be able to do that.

3 Q. What if a local had bylaws that
4 eliminated that write-in option?

5 A. I think that would be counter to the
6 constitution. That would be something to be
7 questioned when the bylaws would be submitted.

8 Q. And who do the bylaws get submitted
9 to?

10 A. If they're looking to make a change,
11 or when they need to be updated, they can
12 submit it to the international president.

13 Q. And do those have to be approved by
14 the international president?

15 A. Yes.

16 Q. I'm going to show you what's been
17 produced to us as the bylaws of Local 98. Do
18 you recall, specifically, reviewing these in
19 connection with Mr. Battle's protest.

20 A. Yes. I've looked at parts of that,
21 not the whole bylaws, but parts that pertained.

22 Q. Parts that pertained to nominations
23 and elections?

24 A. Yes.

25 Q. Article 3 of Local 98's bylaws,

1 there are a number of provisions, but the ones
2 that appear to deal with nominations are found
3 in Section 4A and 4B. 4A indicates that at the
4 meeting of the local union where nominations
5 are made, after nominations have closed, the
6 local union, by a majority of members present,
7 shall elect an election judge and as many
8 tellers as are required, who shall serve as an
9 election board to conduct the election. No
10 candidate for office shall be eligible to serve
11 on this board.

12 Do you see that?

13 A. Yes.

14 Q. Do you recall reviewing that in
15 connection with Mr. Battle's protest?

16 A. Yes. That's pretty well standard
17 language in, basically, all bylaws.

18 Q. And then secondly, it reads, after
19 nominations have been made and those nominated
20 are found to qualify, the election board shall
21 have ballots prepared listing, in alphabetical
22 order, the names of all the candidates for each
23 respective office.

24 Do you see that?

25 A. Yes.

1 Q. And do you recall reviewing that in
2 connection with Mr. Battle's protest?

3 A. Like I said, that's standard
4 language, too.

5 Q. I will state that in my review of
6 the bylaws, I haven't found any other
7 provisions stating anything else about the
8 manner in which nominations shall be held. Do
9 you recall seeing any other provisions?

10 A. In the constitution or in the
11 bylaws?

12 Q. In Local 98's bylaws, do you recall
13 seeing any other provisions dealing with the
14 manner in which nominations shall be held,
15 besides the ones we just went through?

16 A. Not if you're referring directly to
17 nominations. No.

18 Q. And in reading these provisions,
19 what's your understanding of the manner in
20 which Local 98 conducts its nominations?

21 A. They would have a nomination
22 meeting. They would hold nominations at a
23 union meeting and present the candidates and
24 all the people running for the various
25 positions.

1 Q. Do you understand that to be
2 consistent with what the constitution has
3 provided?

4 A. Yes.

5 Q. Turning to 2020 elections,
6 generally, was there any IBEW requirement that
7 meetings be in person?

8 A. You're saying nomination meetings be
9 in person? It was up to the local union how to
10 deal with it since the pandemic. So locals
11 handled it their own way and different
12 limitations might have been in their area.

13 Q. And did IBEW provide any guidance to
14 locals as to how to handle nominations and
15 elections during the pandemic?

16 A. Yes. There was information sent
17 out. The possibility that you could delay your
18 election process, if need be. You could do it
19 by mail.

20 Q. And was election by mail something
21 specific to the pandemic or is that something,
22 under your understanding, that the constitution
23 allowed for?

24 A. I think for the most part -- there
25 are some local unions that utilize mail-in all

1 the time. But for the most part, the
2 nominations, that was something more or less
3 for the pandemic, basically, to give -- for the
4 whole process to be mail. Normally that
5 doesn't happen. Usually, nominations are made
6 in person for the most part. We have a
7 nominations meeting with provisions that can
8 help people that can't attend.

9 Q. Under, sort of, the pandemic
10 circumstances, I'll call them, could
11 nominations be conducted by video or conference
12 call?

13 A. No. We really didn't have that
14 ability.

15 Q. Under your understanding, would it
16 have been okay to have nominations made by
17 dropping forms off at the union hall?

18 A. Yes. That could have been, yes.

19 Q. All right. I'm going to show you
20 what's been -- there's some exhibits that have
21 been in some other depositions, but for
22 clarity's sake, we'll mark this as Welsh No. 1.

23 (Deposition Exhibit No. 1 was
24 marked for identification.)

25 Q. And actually, before I direct you to

1 this, in particular, under the IBEW
2 constitution, would completing something like a
3 nomination form be sufficient to be considered
4 a nomination under the constitution?

5 A. Yes.

6 Q. Did you have a chance to review the
7 forms that Local 98 used in its June 2020
8 election in connection with your evaluation of
9 Mr. Battle's protest?

10 A. Not until after the fact.

11 Q. What do you mean after the fact?

12 A. We weren't aware that he sent
13 anything in. We were under the assumption that
14 he actually took his paperwork with him.

15 Q. Okay. Speaking more generally than
16 Mr. Battle's form, did you have a chance to
17 review a blank version?

18 A. I'm sorry, no. No.

19 Q. You did not?

20 A. No.

21 Q. Do you recall being interviewed by
22 the Department of Labor in connection with
23 Mr. Battle's protest?

24 A. Yes.

25 Q. Do you recall telling them that the

1 provision that no member shall be nominated for
2 office unless he is present or signifies his
3 willingness in writing meant that completing a
4 form like this would be considered a
5 self-nomination under the constitution?

6 A. If the form was completed, yes.

7 Q. Recognizing that you may not have
8 seen this during your consideration of
9 Mr. Battle's election protest, could you take a
10 moment and look at this nomination slip and
11 tell me whether, in your consideration, it
12 meets the requirements for a written
13 nomination?

14 MR. KURNICK: Objection to the
15 question. It calls for an inadmissible opinion
16 by the witness.

17 THE WITNESS: Okay. You're
18 asking if the form is complete. To me, the
19 form does not look complete.

20 BY MS. DeBRUICKER:

21 Q. And in what ways is it not complete?

22 A. There should be a nominator.
23 Whether -- if you're nominating yourself, you
24 should put your own name there. I would assume
25 that's what the form would be for.

1 Q. The form reads, the undersigned
2 member of IBEW Local 98 nominates -- there's a
3 space, and Charles Battle is written, where the
4 office of president is written in --

5 A. Right.

6 Q. -- in the 2020 election of officers
7 of Local 98.

8 A. Right.

9 Q. And are you referring to the next
10 few lines, I believe, the name of the
11 nominator?

12 A. The name of the nominator, yes.

13 Q. And nominator's signature and card
14 number?

15 A. Yes.

16 Q. Well, it says, the undersigned
17 member nominates. And then there is a
18 signature at the bottom of the form.

19 MR. KURNICK: Excuse me, but
20 that's not a question.

21 BY MS. DeBRUICKER:

22 Q. Would that signature not be
23 sufficient for someone to nominate themselves?

24 MR. PODRAZZA: Objection.

25 Asked and answered.

1 MR. KURNICK: Mike, you can
2 answer the question.

3 THE WITNESS: It says
4 candidate signature, yes. It doesn't say
5 anything about who nominated the person, the
6 candidate's signature there.

7 BY MS. DeBRUICKER:

8 Q. Would there be any kind of
9 presumption that if there was no one else
10 listed as the nominator, that the candidate was
11 nominating himself?

12 MR. PODRAZZA: Objection.
13 Asked and answered. I'm sorry. You can
14 proceed.

15 THE WITNESS: I can't presume
16 that. I don't know. I mean, it's asking for a
17 name of a nominator. To me, I would have put
18 my name down below it when I would see that.

19 BY MS. DeBRUICKER:

20 Q. In determining the sufficiency of a
21 writing indicating a member's willingness to
22 run, whose job is it to determine the
23 sufficiency of the writing?

24 A. Those letters are usually submitted
25 to the recording secretary. And if there are

1 any questions, I would assume he asked that
2 person. But it's, usually, the recording
3 secretary, when it's at a nomination meeting,
4 would be the one who's getting the letters
5 coming in requesting a run for office.

6 Q. And the recording secretary, I
7 understand, is a position at the local; is that
8 correct?

9 A. Correct. They're the ones who take
10 the notes at the meeting.

11 Q. So would the recording secretary be
12 the ultimate arbiter of whether a nomination
13 form was sufficient or not?

14 A. I don't know if he would be the
15 final arbiter. It may be something than an
16 election judge, if it comes to that point,
17 would look at, too, to determine if somebody
18 was eligible to run for office.

19 Q. It is my understanding that an
20 election judge is only appointed after
21 nominations; is that right?

22 A. Well, in this case, yes.

23 Q. When you say in this case, what do
24 you mean?

25 A. Well, that's how their bylaws state

1 it, that's how they would nominate their
2 election judge.

3 Q. Do you understand that there was an
4 election judge appointed for Local 98 in the
5 June 2020 nominations?

6 A. Not that I'm aware of.

7 Q. It's my understanding that they
8 didn't consider any of the positions contested,
9 so there wasn't a need for a formal election;
10 is that your understanding?

11 A. Correct.

12 Q. So if a member were to contend that
13 this nomination form was sufficient for him to
14 be considered a candidate and -- who would he
15 take that to for a determination?

16 A. You're saying if there's no election
17 judge?

18 Q. Right.

19 A. He would probably file a protest to
20 the office -- or a clarification to the 3rd
21 District Office. That would be the next step.

22 Q. And who at the 3rd District Office
23 would determine the sufficiency of the
24 nomination form?

25 A. Well, I would probably assign a rep

1 to look into this issue and then make a
2 determination after reviewing the facts
3 presented.

4 Q. So it would be for a representative
5 to investigate and then you would be the
6 decision-maker?

7 A. Correct.

8 Q. And based on the constitutional
9 provisions we've gone through and Local 98's
10 bylaws, if you were to decide the sufficiency
11 of this nomination form, what would your
12 decision be?

13 MR. KURNICK: Objection.
14 Calls for speculation and an inadmissible
15 opinion. Mike, you can answer.

16 THE WITNESS: To me, looking
17 at this, I would have to question why there
18 isn't the name of a nominator there.

19 BY MS. DeBRUICKER:

20 Q. Are you aware of any bylaw or
21 constitutional provision requiring the name of
22 a nominator?

23 A. Well, if you can self-nominate or
24 have someone nominate you -- I mean, you would
25 have to have somebody nominate you, whether

1 it's yourself or another person, somebody
2 should still be nominating.

3 Q. If you were reviewing this
4 nomination form for sufficiency, would the
5 absence of any name in the place for nominator
6 be determinative of your decision?

7 MR. KURNICK: Same objection.
8 Mike, you can answer.

9 THE WITNESS: To me, I would
10 have probably looked at the form and said it
11 wasn't completed properly. I think you need
12 the name for a nominator in there. Whether
13 it's yourself or another person, there should
14 be somebody on that form, on that line.

15 BY MS. DeBRUICKER:

16 Q. Are you aware of anything requiring
17 a name be in that line, any constitutional
18 provision, any bylaw?

19 A. Just the fact you would be
20 nominating yourself or somebody would be there
21 to nominate you. I guess you need to be
22 nominated one way or the other.

23 Q. If there wasn't someone else's name
24 in there, you wouldn't be willing to presume
25 that the member was nominating himself?

1 MR. PODRAZZA: Asked and
2 answered. Objection.

3 THE WITNESS: I couldn't make
4 the presumption. I don't know.

5 BY MS. DeBRUICKER:

6 Q. Who would know?

7 A. I'm sorry?

8 Q. If you don't know, who would know?

9 A. As far as I said about that being --
10 should be filled out either by the person
11 themselves or the nominator. That would be my
12 thoughts on that, on a form like that.

13 Q. At some point, did you receive a
14 protest relating to Local 98's June 2020
15 election and nomination of officers?

16 A. Yes.

17 Q. Was that from Charles Battle?

18 A. Yes.

19 Q. Did you review the protest when it
20 came in?

21 A. Yes, I did.

22 Q. Did you determine that the protest
23 was timely?

24 A. Yes.

25 Q. Did you determine that this protest

1 was properly made, and that it wasn't missing
2 anything that would be required for review?

3 A. Yes. If things were filled out,
4 yes, you know, if I would be able to review it.
5 Yes.

6 Q. How did the protest come to your
7 attention?

8 A. It was sent to the 3rd District
9 Office. So it was given to me in the office.

10 Q. I'm going to go back for one moment
11 to the nomination. Does penalizing the
12 self-nominating member for not filling in his
13 own name as nominating himself constitute a
14 reasonable opportunity to nominate candidates?

15 MR. KURNICK: Objection. It
16 calls for a legal conclusion. You're asking
17 him for an inadmissible opinion. It's
18 speculative. You can have him answer, for what
19 it's worth, but we understand that's not really
20 a proper question.

21 Mike, if she wants you to answer,
22 you should answer.

23 THE WITNESS: could you repeat
24 the question?

25 BY MS. DeBRUICKER:

1 Q. Sure.

2 MR. KURNICK: And I don't know
3 if I mentioned this, assumes facts not in
4 evidence, which is that somebody was being
5 penalized for not filling in these lines on the
6 form. Go ahead, Mike.

7 THE WITNESS: I asked for her
8 to repeat the question. I'm sorry.

9 BY MS. DeBruicker:

10 Q. We discussed earlier that the LMRDA
11 requires that members be given a reasonable
12 opportunity to nominate candidates. Do you
13 recall that line of questioning?

14 A. Yes, I recall you asking that. Yes.

15 Q. Do you recall that being a provision
16 of the LMRDA?

17 A. Correct.

18 Q. Would rejecting a nomination slip in
19 which a self-nominating member did not put
20 their own name as the name of the nominator be
21 to a reasonable opportunity to nominate
22 candidates -- or denying a member a reasonable
23 opportunity to nominate candidates?

24 A. I'm not exactly sure. I mean, this
25 form, I never saw until after the fact.

1 Q. I understand.

2 A. I have no way of surmising what
3 transpired. I mean, to me, like I already
4 stated, it has a place for the nominator, so
5 you fill it in. If in doubt, you ask a
6 question.

7 So I don't know if there was doubt.
8 I'm not there. I don't know. I wasn't at the
9 nomination meeting, I don't know what his frame
10 of mind was. I don't know.

11 Q. Members must have a reasonable
12 opportunity to nominate candidates.

13 A. It looked like they had a reasonable
14 opportunity. There was a meeting where they
15 could have went and got nominated or they could
16 have sent in a letter by mail, too.

17 Q. And, in your opinion, would it be
18 reasonable to reject this nomination slip
19 because the member did not list their own name
20 as nominator?

21 MR. KURNICK: Same objection.
22 Mike, you can go ahead and answer.

23 THE WITNESS: I don't know how
24 I can answer any differently than how I already
25 answered it. I said that the form wasn't

1 completed the way it was asked to be completed.

2 So I'm sort of lost. I don't know -- I'm

3 sorry, I don't know what else to say. It asked

4 for the name of a nominator, you put the name

5 of the nominator in.

6 BY MS. DeBRUICKER:

7 Q. My question is, in your

8 determination, would it be reasonable to not

9 consider this member a candidate because of

10 their failure to list their own name as

11 nominator?

12 MR. PODRAZZA: It's been asked

13 and answered. Objection.

14 THE WITNESS: I said that the

15 form wasn't complete so to me -- the form was

16 not completed entirely so it wouldn't have been

17 able to be used or wouldn't have counted as a

18 self-nomination because it wasn't filled out

19 the whole way.

20 BY MS. DeBRUICKER:

21 Q. My question is, what would be

22 considered reasonable under the LMRDA, in your

23 judgement?

24 MR. KURNICK: Obviously, that

25 asks for a legal conclusion, and I object on

1 that basis.

2 MR. PODRAZZA: It's been asked
3 and answered. How many times do you want to
4 ask him this?

5 MS. DeBRUICKER: It hasn't
6 been answered. I'll ask it as many times as I
7 need to.

8 MR. PODRAZZA: Well, he should
9 be instructed not to answer because now you are
10 becoming attacking of him because you don't
11 like the answer he gave you. That's what this
12 is all about.

13 MS. DeBRUICKER: He has not
14 answered my question as to what would be a
15 reasonable opportunity to nominate under the
16 LMRDA.

17 THE WITNESS: Oh, okay. Well,
18 basically, you would fill out the form and you
19 would be eligible to run for election. Fill
20 out the form properly.

21 In this case, the name is missing as
22 nominator. I don't know what else to say. I
23 mean, like I said, there was a form to submit,
24 you're supposed to have somebody nominate you,
25 whether it's yourself or somebody else. There

1 should have been a name on that line.

2 BY MS. DeBRUICKER:

3 Q. My question is, is rejecting a form
4 for a member's failure to list their own name
5 as the nominator a reasonable opportunity to
6 nominate candidates under the LMRDA?

7 MR. PODRAZZA: Objection.

8 Asked and answered. And it's argumentative at
9 this point. Mr. Kurnick, I think you should
10 seriously consider instructing the witness not
11 to answer. And if we have to take it that far,
12 we'll get Judge McHugh involved.

13 MR. KURNICK: Ms. DeBruicker,
14 I really think you're not going to get a
15 different answer at this point. He's answered
16 your question a number of times. He's given
17 you the same answer over and over and over
18 again. If you ask the question ten more times,
19 I think you're going to get the same answer.

20 MS. DeBRUICKER: I haven't
21 gotten an answer, but I will move on. If we
22 need to revisit this, we will.

23 MR. KURNICK: Fair enough.

24 Thank you.

25 BY MS. DeBRUICKER:

1 Q. Mr. Welsh, earlier, we discussed the
2 process for evaluating an internal election
3 protest. Was Mr. Battle's internal election
4 protest investigated any differently than that?

5 A. No. I assigned a rep to do the
6 investigation and to do a report, same as
7 anybody else's.

8 Q. Did you participate in the
9 investigation, or did you just review the
10 report?

11 A. No. The rep was, actually, the one
12 doing the investigation. I did not participate
13 in the investigation.

14 Q. Did you give Mr. Kieffer advice
15 during the course of the investigation?

16 A. No.

17 Q. You didn't ask him to speak to
18 specific individuals?

19 A. No.

20 Q. What is your understanding of the
21 crux of Mr. Battle's protest?

22 A. As far as --

23 Q. What was your understanding of what
24 he was protesting?

25 A. You mean -- overall, he was

1 protesting that he felt he didn't have an
2 opportunity to run for office, and that he felt
3 that he was intimidated, I guess, too.

4 Q. Do you recall him mentioning the
5 intimidation of other members?

6 A. I'm sorry?

7 Q. Do you recall him mentioning the
8 intimidation of other members in addition to
9 himself?

10 A. It was stated in Mr. Kieffer's
11 report that, yeah, he said that there were
12 other people.

13 Q. Looking at Page 3 of Mr. Battle's
14 protest --

15 A. Could you increase that a little?

16 Q. Yes.

17 A. Thank you.

18 (Deposition Exhibit No. 2 was
19 marked for identification.)

20 Q. So this is Page 3 of Mr. Battle's
21 protest. And among his statements are, members
22 are scared of intimidation, and they would not
23 run on their own or support my candidacy.

24 Do you see that?

25 A. Yes.

1 Q. Do you recall that being a part of
2 his protest?

3 A. Yes. We're looking at his protest
4 now. That was in there, yes.

5 Q. And if members were, indeed, scared
6 of intimidation, such that they didn't run for
7 office, would that be Of concern to you?

8 A. You're saying if they felt
9 intimidated -- I'm not exactly sure I can
10 answer that. I'm not sure what they meant by
11 being intimidated, so I'm --

12 Q. Just generally speaking, if members
13 are intimidated out of running for office,
14 would that be a concern to the IBEW?

15 A. I guess if something was proven, it
16 would be a concern.

17 Q. Because the LMRDA requires that
18 members be allowed to run for office or support
19 members without fear of reprisal of any kind;
20 is that right?

21 A. Correct.

22 Q. And if members were threatened with
23 reprisal for running for office, would you
24 consider that a violation of the LMRDA?

25 MR. KURNICK: Objection.

1 Calls for a legal conclusion. Mike, you can
2 answer, if you can answer.

3 THE WITNESS: I just don't --
4 okay. Please repeat the question.

5 BY MS. DeBRUICKER:

6 Q. If members were threatened with
7 reprisal for seeking nomination, would you
8 consider that a violation of the LMRDA?

9 A. I guess I would.

10 Q. Would you consider that a violation
11 of union rules as well?

12 A. I'm sorry?

13 Q. Would you consider that a violation
14 of union rules as well?

15 MR. KURNICK: Objection.

16 Calls for speculation by the witness,
17 inadmissible opinion. Mike, you can answer.

18 THE WITNESS: I was just going
19 to say, I guess it would.

20 BY MS. DeBRUICKER:

21 Q. And just to be clear, in deciding
22 election protests, it's your job to decide
23 whether something violated union rules or not;
24 is that correct?

25 A. Correct.

1 Q. I'm zooming out a little bit just
2 for the sake of time and perspective.
3 Mr. Battle had certain attachments to his
4 protest. Do you recall seeing them? This one
5 looks like it's Attachment A.

6 A. Yes.

7 Q. Attachment B. I think there's one
8 more, Attachment C. Do you recall those being
9 a part of his protest?

10 A. Yes.

11 Q. And did you consider these
12 attachments to be a part of his protest?

13 A. Yes, he presented them.

14 Q. Can you think of any reason not to
15 consider these attachments as part of his
16 protest?

17 A. When somebody submits a protest and
18 attaches a document or something, we don't
19 control what they want to attach. We don't
20 tell them they can't send attachments or
21 anything. I mean, that's up to them, whatever
22 they want to present.

23 Q. And can you think of a basis for
24 excluding any attachments from your
25 consideration?

1 A. No. I mean, basically, we look at
2 everything that would come in. I mean, how
3 much relevance it would provide, I guess,
4 that's what you look at.

5 Q. Are there any IBEW rules that
6 provide for the exclusion of certain
7 information during a protest?

8 A. Not that I'm aware of.

9 Q. I'm going to stop sharing for a
10 moment and get some new documents up. We've
11 been going for almost an hour and a half. How
12 are you doing, Mr. Welsh? Would you like a
13 break or would you like to keep on going?

14 A. Maybe take five, so I can get some
15 more water.

16 Q. That sounds good.

17 (Recess taken.)

18 BY MS. DeBRUICKER:

19 Q. So we were talking about
20 Mr. Battle's internal election protest. And
21 I'm now going to show you what we'll mark as
22 Welsh No. 3, which is a July 28, 2020 letter
23 from Mr. Kieffer. Do you see that, Mr. Welsh?

24 A. Yes.

25 (Deposition Exhibit No. 3 was

1 marked for identification.)

2 Q. It's a four page document. From the
3 front page, are you able to recognize that
4 document?

5 A. Yes.

6 Q. And what is that document?

7 A. That is Randy Kieffer's report.

8 Q. And what was the purpose of him
9 writing this report?

10 A. To give me the information on the
11 background of the election protest.

12 Q. Do reports to you, typically, take
13 this form like in the form of a letter?

14 A. Yes.

15 Q. Did you assist, at all, in the
16 preparation of this letter?

17 A. Not his report. He does the report.

18 Q. At any point, did Mr. Kieffer send
19 you a draft of this report?

20 A. He probably did. I would have to go
21 back -- he probably, maybe, sent a draft.

22 Q. Do you know whether you sent him
23 feedback on that draft?

24 A. I probably did not.

25 Q. Do you, typically, send your

1 representatives feedback on a draft?

2 A. Not usually. I mean, usually, the
3 draft comes in -- it depends. I mean,
4 sometimes -- it depends on the type of
5 information. You know, they may ask a question
6 or something. They have sent me drafts on
7 things they've done and then re-clarified some
8 stuff. But for the most part, their report
9 comes in the way they see it.

10 Q. Do you recall whether you asked
11 Mr. Kieffer to do any further investigation
12 when this draft came in?

13 A. No. Not on this particular report
14 here.

15 Q. Did you ask him to speak to anybody
16 he hadn't spoken to yet?

17 A. Not on this report here.

18 Q. Did you do that with any other
19 report relating to Local 98?

20 A. He had a secondary follow-up report
21 that he attached that we had.

22 Q. Would that have related to a Timothy
23 McConnell?

24 A. Correct.

25 Q. I'll ask about that in a little bit.

1 But in terms of Mr. Kieffer's July 28, 2020
2 report, do you recall any substantive feedback
3 that you gave to him regarding his draft?

4 A. No. No substantive feedback that I
5 can recall.

6 Q. Do you know if Mr. Kieffer made any
7 changes to his report between the draft and the
8 final he sent to you?

9 A. Nothing stands out as anything
10 major. Nothing that I can recall -- changes.

11 Q. Did you review Mr. Kieffer's report
12 when he sent it to you?

13 A. Yes.

14 Q. And did you disagree with any of his
15 factual findings?

16 A. No.

17 Q. Did you disagree with anything else
18 in his letter?

19 A. No.

20 Q. After you received Mr. Kieffer's
21 reports, what, if anything, did you do?

22 A. I reviewed the report and began
23 working on putting it together in a final
24 decision.

25 Q. Did you ever speak with Mr. Battle

1 yourself?

2 A. No.

3 Q. Do you, typically, speak with people
4 who file protests, personally?

5 A. No. Usually, that just gets handed
6 off to the service rep for them to handle it.

7 Q. I'm going to show you what we'll
8 mark as Welsh No. 4, which is another letter
9 from Mr. Kieffer, dated July 24, 2020. Do you
10 see that?

11 A. Yes.

12 (Deposition Exhibit No. 4 was
13 marked for identification.)

14 Q. Do you recall receiving this report
15 from Mr. Kieffer?

16 A. Yes.

17 Q. Do you see this report addresses
18 Mr. Kieffer's conversations with Timothy
19 McConnell; is that your understanding?

20 A. Correct.

21 Q. Did you have a role in planning or
22 arranging for Mr. Kieffer to speak with
23 Mr. McConnell?

24 A. No.

25 Q. Did you direct Mr. Kieffer to speak

1 with Mr. McConnell?

2 A. No. I think that's where his
3 investigation took him. I didn't have to
4 direct him to do that, no.

5 Q. Mr. McConnell writes -- how's this
6 size for you, Mr. Welsh?

7 A. Maybe one click higher. That's
8 good.

9 Q. If I can get it all into one. There
10 we go. Mr. Kieffer writes that, while
11 investigating the complaint by Local Union 98
12 member Charles Battle regarding his claims of
13 intimidation from business agents of Local
14 Union 98 prior to local union nominations,
15 Brother Battle alluded to the fact that he was
16 not the only member who was being bullied into
17 not running for office.

18 Do you see that?

19 A. Yes.

20 Q. Do you agree that was part of
21 Mr. Battle's complaint?

22 A. Yes.

23 Q. Mr. Kieffer continues, Brother
24 Battle told me there were two other members
25 that were considering running for office for

1 the upcoming election but did not because of
2 intimidation from officers and members.

3 I asked Brother Battle if these two
4 members would be willing to talk to me about
5 their experiences. At first, Brother Battle
6 told me that it is not likely that they would
7 talk to me because of fear of reprisal from the
8 sitting officers, but he would contact these
9 members to see if they would be willing to
10 speak to me.

11 Do you see that?

12 A. Yes. You're talking about the
13 second paragraph?

14 Q. The second paragraph.

15 A. Yes.

16 Q. And was it your understanding that
17 there were two other members that Mr. Battle
18 indicated were intimidated out of running or
19 nominating?

20 A. Just by the remarks that he made.
21 He said that, yes.

22 Q. And if members were intimidated out
23 of running, would that have been of concern to
24 you?

25 A. Yes. I mean, if it was

1 substantiated.

2 Q. And I understand there was no
3 contact with the third member. Is that your
4 understanding?

5 A. That's my understanding at that
6 time, yes.

7 Q. Do you know if Mr. Kieffer made any
8 attempt to identify that third member?

9 A. I'm assuming he talked to Brother
10 Battle again about the issue. I mean, he would
11 have to -- he'd be the one to provide that
12 information. I don't think Mr. Kieffer could
13 have gotten that information other than from
14 Mr. Battle.

15 Q. There's no other way an investigator
16 could have figured out who might have been
17 intimidated?

18 A. Not that I'm aware of. I mean, he
19 said two people, and he gave him one name, and
20 he didn't give him the other name, as far as I
21 know.

22 Q. Was there no other way Mr. Kieffer
23 could have figured out who the other members
24 were?

25 A. Not that I'm aware of. I mean,

1 there's 4,000 people in the local, so I don't
2 know how he would pick somebody else up that
3 somebody's made a reference to that they were
4 intimidated. But they didn't give them a name.

5 Q. Could he have reached out to the
6 membership and asked people to come forward?

7 A. That's not usually how we do it. I
8 mean, we investigate off of the facts that are
9 presented. I mean, we don't go out and ask
10 volunteers to come out and present issues. I
11 don't know how he would have done it.

12 Q. Mr. Battle indicated that they would
13 not likely talk to the international because of
14 fear of reprisal from sitting officers. Could
15 he have offered for them to come forward
16 anonymously?

17 A. I guess we could. But I mean,
18 somehow, I mean, if somebody has something they
19 -- if they want to complain or offer that they
20 were threatened or something, somehow we have
21 to verify. You know, somewhere along the
22 line -- it's hard to keep somebody anonymous if
23 you have to verify the facts of what they're
24 saying. So I don't know how you go about doing
25 an investigation and finding some information

1 out when you can't verify the facts.

2 Q. If they wouldn't come forward for
3 fear of reprisal, is there any way you could
4 have alleviated that fear?

5 A. I don't know the way I could have
6 alleviated their fears.

7 Q. Did you understand that
8 Mr. McConnell was one of the two members that
9 Mr. Battle was referring to in his protest?

10 A. I guess after Mr. Battle did give
11 his name, that's when we were aware that he was
12 the one that was being referred to.

13 Q. Moving to the first paragraph of the
14 second page, Mr. Kieffer writes, I spoke to
15 Brother McConnell on July 22, 2020. Brother
16 McConnell told me he considered running for an
17 executive board position in the Local Union 98
18 elections. He told me he was not running with
19 a ticket and was not assisting Charles Battle
20 with his campaign.

21 Did it make a difference, for
22 purposes of your review, whether the other
23 members were running on a ticket with him?

24 A. No. That would have nothing to do
25 with it.

1 Q. Why do you think it was something
2 Mr. Kieffer included in his report?

3 MR. KURNICK: Objection.

4 Calls for speculation. You asked Mr. Kieffer
5 that question, but I don't think you get to ask
6 Mr. Welsh to speculate about what Mr. Kieffer
7 might or might not have thought. Mike, you can
8 answer.

9 THE WITNESS: Can you repeat
10 the question? I'm sorry.

11 BY MS. DeBRUICKER:

12 Q. Did it make a difference, for
13 purposes of your review and your decision on
14 Mr. Battle's protest, whether the other members
15 were running on a ticket with him or not?

16 A. No. That wouldn't have made a
17 difference, no.

18 Q. In the second paragraph, Mr. Kieffer
19 describes a phone call that he had with Local
20 98 Business Manager John Dougherty. Before I
21 go any further, did you review this report in
22 preparation for your deposition today?

23 A. I reviewed it, yes.

24 Q. And Mr. Kieffer reports that
25 Mr. McConnell reported that it was about a 45

1 minute phone call. Do you recall that?

2 A. It's in the report here, yes.

3 Q. He begins that paragraph, Brother
4 McConnell said it was about that time that he
5 started to hear that the sitting officers did
6 not want him to run for office.

7 Would you have any information as to
8 why that may have been?

9 A. No. I have no idea.

10 Q. Mr. Kieffer continues, Brother
11 McConnell says Business Manager John Dougherty
12 did not directly threaten him not to run for
13 office but that the conversation made him feel
14 funny. Do the words directly threaten have any
15 meaning to you in your review of an election
16 protest?

17 A. Did not directly threaten him,
18 you're saying?

19 Q. Yes.

20 A. I guess it wasn't a direct threat.
21 I mean, he took it as feeling funny, I guess.

22 Q. In your review of an election
23 protest, do you distinguish between what's a
24 direct threat and what's an indirect threat?

25 MR. KURNICK: Objection to

1 that question. That calls for an inadmissible
2 opinion and speculation. There's no foundation
3 here that he's ever addressed, outside of this
4 context, an election protest involving direct
5 or indirect threats or one requiring him to
6 distinguish between the two. Mike, you can
7 answer.

8 THE WITNESS: I'm just not
9 exactly sure. It said didn't directly
10 threaten. I guess directly would be that, you
11 know, don't -- if you do it, I'll do something
12 and indirectly would be just hinting around at
13 something. I don't know. I don't know how the
14 conversation was going. I can't really say for
15 sure.

16 BY MS. DeBRUICKER:

17 Q. I'm not asking you to comment on a
18 conversation you weren't a part of. I'm asking
19 you, in your role as decision-maker with
20 respect to an election protest, does it make a
21 difference to you whether a threat is direct or
22 indirect?

23 MR. KURNICK: Same objection.

24 THE WITNESS: I would have to
25 say, I don't recall having another election

1 protest where somebody claimed that they were
2 threatened. Usually, it's procedural stuff
3 so -- I don't know how to answer that for you
4 because I don't know what -- directly or
5 indirectly, with a threat, how somebody is
6 going to follow through. I don't know.

7 BY MS. DeBRUICKER:

8 Q. Is there a certain kind of conduct
9 that IBEW considers to be threatening?

10 A. I don't know what the IBEW considers
11 threatening or not threatening.

12 Q. In investigating whether a member
13 was threatened with reprisal in violation of
14 the LMRDA, would only threats of violence
15 count?

16 A. I'm not sure how to answer. I mean,
17 as far as did somebody make a direct threat of
18 violence, I guess that would be something that
19 you would tend to see as directly threatening.
20 Indirectly, I'm not exactly sure.

21 Q. Well, could threats against
22 someone's job or livelihood constitute a
23 potential violation of the LMRDA?

24 MR. KURNICK: Objection.

25 Calls for a legal conclusion by the witness.

1 And, Mike, yes, you can answer.

2 THE WITNESS: I guess if
3 somebody, in their thoughts, they thought they
4 were going to be somehow affected or the family
5 affected, I guess that would be a direct
6 threat, I guess, or it could be indirect, too.
7 Not knowing how the question was posed or --

8 BY MS. DeBRUICKER:

9 Q. Yeah. And I'm not asking you to
10 distinguish between a direct threat and an
11 indirect threat at this point.

12 In determining whether conduct may
13 have violated the LMRDA and a union member's
14 right to seek office without fear the reprisal
15 of any kind, would a threat to someone's job --
16 could a threat to someone's job be sufficient
17 to violate --

18 A. If it could be substantiated.

19 Q. So economic threats could
20 potentially violate the LMRDA?

21 MR. KURNICK: Same objection.

22 THE WITNESS: Like I said, if
23 something could be substantiated, I guess it
24 would be.

25 BY MS. DeBRUICKER:

1 Q. Could threats to someone's
2 reputation constitute a violation of the LMRDA?

3 MR. KURNICK: Same objection.

4 Mike, go ahead.

5 THE WITNESS: I'm not exactly
6 sure -- you know, a threat to somebody's
7 reputation, you know, direct threat or not, I'm
8 not sure how that would transpire.

9 BY MS. DeBRUICKER:

10 Q. Again, I'm not asking the
11 distinction between a direct threat or any
12 other threat. I'm asking whether a threat to
13 someone's reputation could constitute a
14 violation of the LMRDA?

15 MR. KURNICK: Asked and
16 answered. Ms. DeBruicker, if you're going to
17 ask him legal questions, you can't be
18 dissatisfied or even surprised if he's not sure
19 what that answer is.

20 MS. DeBRUICKER: He's
21 answering a different question, so I'm trying
22 to clarify it.

23 THE WITNESS: I don't know how
24 to answer a question about somebody's
25 reputation. It's all over the board. I mean,

1 I don't know how to answer that. How
2 somebody's reputation could be a threat, I'm
3 not sure how to answer that. I mean --

4 BY MS. DeBRUICKER:

5 Q. How about, if you don't stop running
6 for office, I'm going to attribute statements
7 on a defamatory website to you?

8 MR. KURNICK: Objection, calls
9 for speculation, calls for a legal conclusion.

10 MR. PODRAZZA: Counsel, you
11 really are going beyond ridiculous at this
12 point. Can we move on?

13 MS. DeBRUICKER: If I can get
14 an answer, we can move on.

15 MR. PODRAZZA: First off, he's
16 a fact witness. You didn't notice him to be an
17 expert and yet you still give him expert
18 questions and ask him to answer them, which is
19 completely inappropriate under the Federal
20 Rules.

21 Second, you just keep getting
22 argumentative with him. I mean, how's he
23 supposed to know about reputation one way or
24 another when it's a case by case determination?
25 It's a silly line of questioning that's just

1 eating up ungodly amounts of time, as you did
2 in the first deposition with Mr. Kieffer. Very
3 unhelpful and very unproductive to the
4 resolution of the case, which is
5 straightforward.

6 THE WITNESS: As far as
7 posting stuff on a website and threatening
8 stuff like -- that's a whole other issue
9 dealing with social media and stuff. I don't
10 know much about how to speak to what somebody
11 puts on social media may entail.

12 BY MS. DeBRUICKER:

13 Q. Mr. Kieffer reports that, Brother
14 McConnell said that the only thing that could
15 have been taken as intimidation was Business
16 Manager Dougherty said, if you lose the
17 election, it could be a long three years.

18 Do you see that?

19 A. Yes.

20 Q. Do you have any information as to
21 what that meant?

22 A. No, I do not.

23 Q. And Mr. McConnell reported, not
24 knowing exactly what that meant, it made him
25 reconsider running for office.

1 Do you see that?

2 A. Yes, I see that.

3 Q. So according to Mr. Kieffer,
4 Mr. McConnell said that Mr. Dougherty's
5 statement was that if you lose, it could be a
6 long three years, and that made him change his
7 mind about running. Was that your
8 understanding?

9 A. I guess it was part of the
10 understanding, I guess. Is that the final
11 thing, I guess. I guess they had a
12 conversation and stuff. I don't know how that
13 capped all the stuff that was transpiring in
14 the meantime -- you alluded to 45 minutes, so
15 I don't know what else -- did something else
16 change his mind? I don't know.

17 Q. Mr. Kieffer reports that
18 Mr. McConnell reported that Dougherty spoke
19 with Brian Eddis and Jim Ryan and discouraged
20 them in a conference call regarding Tim
21 McConnell running for e-board and how that may
22 not be good for the local union.

23 Do you see that?

24 A. Where your cursor's moving around
25 now?

1 Q. Yes.

2 A. Okay. Yes, I see it.

3 Q. Did that raise any concerns for you,
4 if Dougherty contacted other people to
5 discourage Mr. McConnell from running?

6 A. I think it all boils down to, at the
7 end of this when I think Mr. Kieffer, you know,
8 tried to see if he would be willing to come
9 forward.

10 Mr. McConnell, basically, said he
11 didn't want anything brought up, at all. He
12 didn't want it brought up, he didn't want his
13 name mentioned, he didn't want to file any
14 complaints. So, basically, this piece of it
15 didn't go any further either.

16 Q. Why was that the end of it?

17 A. Because Mr. McConnell did not want
18 his name used at all. He didn't want it
19 brought up at all, he didn't want to press any
20 type of charges. He didn't want to pursue it
21 any further.

22 Q. So if there's some evidence that
23 union conduct may have influenced the outcome
24 of an election in causing someone not to run,
25 if that member doesn't want to pursue it, does

1 that mean there's no violation?

2 A. I don't know because I don't know
3 what all else he might have had. I don't know
4 what type of protest or complaint or charge he
5 might have risen. If he wasn't going to -- if
6 he wasn't willing to substantiate or bring them
7 to light, there's no way for us to make him do
8 it.

9 Q. And if there's conduct of concern,
10 but the member doesn't want to file a formal
11 protest, is that the end of the matter? Does
12 IBEW investigate no further?

13 MR. KURNICK: Objection.
14 Calls for an inadmissible opinion and
15 speculation by the witness. Mike, you can
16 answer.

17 THE WITNESS: I mean, we work
18 off of, if somebody doesn't want to press
19 charges or somebody wants to remain anonymous,
20 we try to live up to that and honor their
21 request or wishes. So if that person is not
22 going to come forward, there's no way for us to
23 go on it just by what he said. I mean, he has
24 to be willing to stand up and, you know,
25 substantiate the claims he's making.

1 BY MS. DeBRUICKER:

2 Q. Did you make any inquiry with
3 Mr. Dougherty as to whether he had a
4 conversation with a member along these lines?

5 A. No, we did not, because,
6 Mr. McConnell did not want his name brought up
7 at all, he did not want anything to get back to
8 anybody. He just wanted to drop the whole
9 issue. He didn't want anything to do with it.

10 Q. Did you have any reason to believe
11 that the conduct described by Mr. McConnell
12 didn't happen?

13 A. I guess I didn't have any reason to
14 think it did or did not happen. Unless
15 somebody is willing to put it in writing or
16 summarize it by writing, and willing to sign
17 off on it, I have no way of knowing whether
18 what they're saying is true or not and not be
19 able to move forward.

20 Q. Does IBEW have an obligation to
21 investigate potentially problematic conduct?

22 MR. KURNICK: Objection.
23 Calls for a legal conclusion by the witness.
24 Mike, you can answer.

25 THE WITNESS: Usually, we

1 operate of off, if somebody has an issue, we
2 ask them to reduce it to writing and send it in
3 and then we'll review it and look into it.

4 It's up to the individual member to
5 bring it to our attention and ask for us to
6 look into it or pursue it.

7 BY MS. DeBRUICKER:

8 Q. I'm going to show you what we'll
9 mark as Welsh No. 5, I believe.

10 (Deposition Exhibit No. 5 was
11 marked for identification.)

12 Q. And I'll just scroll through the
13 first page here, Mr. Welsh. Do you recognize
14 this document?

15 A. Oh, yes. Yes.

16 Q. What is that document?

17 A. That's my answer back to his
18 election protest.

19 Q. Did you prepare this letter?

20 A. Yes.

21 Q. Did anyone else have a role in
22 drafting or preparing this letter?

23 A. Probably my construction rep in the
24 office would help. We'd put a draft together
25 -- you know, we'd talk and then we'd put the

1 draft together and then I review it and make
2 any necessary changes if I felt there were
3 changes to be made.

4 Q. Who is your construction rep?

5 A. Dennis Affinati.

6 Q. Did anyone else have input into your
7 draft of this letter?

8 A. I'm trying to think. In putting the
9 letter together, no.

10 Q. Did you review this letter in
11 preparation for today?

12 A. I looked at it, yes.

13 Q. And you kind of break issues down by
14 number. No. 1 looks like it address the
15 nomination notice. You write that, Mr. Battle
16 alleges that Local 98's election notice was
17 unlawfully vague and did not provide specifics
18 with respect to seconding or nominating.

19 Do you see that?

20 A. Yes.

21 Q. I'm going to flip back to
22 Mr. Battle's protest which attached a copy of
23 the election notice. Do you see that?

24 A. Yes.

25 Q. I'll direct your attention to the

1 center paragraph. It says, nominations shall
2 take place on June 9, 2020 beginning at 7 p.m.
3 The acknowledgement of willingness to be
4 nominated for office must be received by the
5 union no later than 5:00 p.m. on June 9, 2020.

6 Do you see that?

7 A. Barely. It's pretty small.

8 Q. Sorry. Trying to save time.

9 A. Thank you.

10 Q. Does the notice indicate anything
11 about whether a union member can nominate
12 themselves?

13 A. No. I don't see anything in that
14 paragraph.

15 Q. Does it say anything about whether
16 nominations must be seconded?

17 A. No.

18 Q. Did the notice say anything about
19 the nominations must be made in person?

20 A. It says on there, if you're unable
21 to apply in person, then you can -- I'm looking
22 at the wrong thing. I'm sorry. It would give
23 the opportunity to mail in.

24 Q. Does it is say anything about mail?

25 A. Acknowledgment and willingness to be

1 nominated must be received by -- well, I guess
2 it wouldn't have to be mailed then. It could
3 be dropped off, too.

4 Q. Did you determine that the notice
5 met the requirements of the IBEW constitution?

6 A. Yes. But I didn't have any input
7 into how they did the nomination letter.

8 Q. Understood. You were just reviewing
9 the notice; correct?

10 A. Correct.

11 Q. Because Mr. Battle indicated that he
12 thought the notice was confusing; is that
13 right?

14 A. Correct.

15 Q. And said it didn't say anything
16 about the need for nominations -- or the need
17 for someone else to nominate you or the need
18 for someone to second that; correct?

19 A. Correct.

20 Q. If seconds -- if a member couldn't
21 nominate themselves, the notice could have
22 said, but it didn't -- the notice could have
23 indicated that nominators and seconders were
24 required; correct?

25 MR. KURNICK: Objection.

1 Calls for speculation, inadmissible opinion.
2 The notice could have included an infinite
3 number of things. And I'm not sure it makes
4 sense to ask him what it could have included.

5 BY MS. DeBRUICKER:

6 Q. You indicated you disagreed with
7 Mr. Battle's confusion about the notice; is
8 that correct?

9 A. Correct.

10 Q. Did you make a determination as to
11 whether Mr. Battle's perception of the notice
12 was reasonable, even if you disagreed with him?

13 A. I'm not sure I understand your
14 question.

15 Q. Could you understand how Mr. Battle
16 could be confused by the notice?

17 A. I guess anybody could be confused
18 about a notice or anything. Usually, if
19 somebody is confused, you might ask a question,
20 could you clarify, please.

21 Q. And who is Mr. Battle supposed to
22 ask if he had a question?

23 A. Whoever was conducting the
24 nominations.

25 Q. And who was that?

1 A. I'm not exactly sure who was
2 conducting. It would, normally, be the
3 president conducting the nominations.

4 Q. Did you know whether anyone was
5 there the night of the nominations for
6 Mr. Battle to ask questions to?

7 A. I'm assuming that all the officers
8 were probably present.

9 Q. Do you have any information to that
10 one way or the other?

11 A. It was nominations night, so you
12 assume that most of the officers would be at
13 the nomination meeting.

14 Q. Again, you're assuming? You don't
15 have that information?

16 A. No.

17 Q. No. 2, you contend that Local 98's
18 form required you to list a member who would
19 nominate you and another member would second.

20 Mr. Battle indicated that it was
21 unclear to him who he needed to sign the form.

22 Does confusion over what the form
23 requires concern you?

24 MR. KURNICK: I'm sorry. I
25 didn't hear the question. Could you repeat it,

1 please?

2 MR. PODRAZZA: Is that
3 question assuming that there's actual confusion
4 or just claimed confusion?

5 BY MS. DeBRUICKER:

6 Q. In your review of a protest alleging
7 confusion over the elections process, does what
8 matter is the protester's confusion or whether
9 or not you're confused?

10 MR. KURNICK: Again, I'm
11 sorry, but I didn't hear the last few words.

12 BY MS. DeBRUICKER:

13 Q. In your review of an election
14 process that alleges that a process was
15 confusing, does what matter is the protester's
16 confusion or whether you considered the process
17 confusing, Mr. Welsh?

18 A. I'm not at nominations, so it would
19 have to be the member being confused, I guess,
20 would be the issue, not me being confused.

21 Q. So if a member has legitimate
22 confusion about a process, what does the IBEW
23 do?

24 A. If he would have asked a question
25 and gotten an unclear answer, or somebody told

1 him something wrong, then we would have
2 probably had that as part of his charges here.
3 And then we would have looked into it and
4 addressed it. But in his charges, he was just
5 saying he appeared to be confused and didn't
6 ask anybody for clarification.

7 Q. And is there a requirement that he
8 ask for clarification?

9 A. I can only set myself in there
10 personally. I mean, if I'm not clear on
11 something and something is going on, I'll ask a
12 question.

13 Q. Who must he ask the question to?

14 A. I would ask one of the officers who
15 was present, probably the president. I would
16 ask the president.

17 Q. I'm not asking what you would do,
18 I'm asking what he must do in order to satisfy
19 the requirement.

20 A. He would have to ask one of the
21 officers.

22 Q. Is that made plain to the members at
23 any point?

24 A. Pardon me?

25 Q. Is the expectation that they ask one

1 of the officers a question made plain to
2 members anywhere?

3 A. I don't see it anywhere but --

4 Q. You just think it's something he
5 should have done?

6 A. I can't use myself again, so, to me,
7 if a member's is confused, he should ask a
8 question for clarification.

9 Q. And this was a question about the
10 form that he had filled that he turned in to
11 the local by 5:00 as required?

12 A. We weren't aware that he turned
13 anything in. We were told that he took the
14 paperwork back to the car, so we didn't know
15 until after the fact that he actually turned
16 anything in.

17 Q. We heard testimony yesterday that,
18 as of 5:00, there was nobody working the tables
19 and Ms. Chupka had to be called over in order
20 to answer Mr. Battle's questions; were you
21 aware of that?

22 MR. PODRAZZA: That's
23 counsel's interpretation of the testimony. So
24 he'll just have to accept what she's saying,
25 it's not necessarily reflective of what was

1 actually testified to.

2 THE WITNESS: Just what he put
3 in his complaint, that she was present and that
4 she went back to ask somebody. I wasn't aware
5 of any -- you're saying the reason he went back
6 to his truck is because nobody was there?

7 BY MS. DeBRUICKER:

8 Q. I said nothing about his truck. I
9 said he went to the nomination site and there
10 was no one there to answer his question.

11 Did you have that information when
12 you decided Mr. Battle's protest?

13 A. That there was nobody at the -- the
14 information that Tara Chupka -- she was there
15 with the forms handing them out as people came
16 in.

17 Q. Is that your understanding of what
18 the circumstances were?

19 A. Yes.

20 Q. Because Ms. Chupka testified
21 yesterday that she took forms over there only
22 after Mr. Battle showed up and asked for them.

23 A. Okay.

24 MR. KURNICK: I don't believe
25 that's a question. So Mike, there's no reason

1 to answer.

2 BY MS. DeBRUICKER:

3 Q. Did you determine whether someone
4 was at the site for someone to ask questions to
5 when you decided Mr. Battle's protest?

6 A. There were people at the site that
7 if he had a question, he could ask, yes.

8 Q. You determined that there were
9 people there that he could ask questions to?

10 A. The officers would be there that he
11 could ask questions to, yes.

12 Q. My question is, did you determine
13 whether there, in fact, were people there that
14 he could ask questions to?

15 A. I didn't determine who,
16 specifically, was there. No, I did not.

17 Q. And he indicated he asked a question
18 to Ms. Chupka, and even she didn't know the
19 answer, she had to call someone else. Did you
20 understand that?

21 A. Yes.

22 Q. You go on to describe, in No. 5, a
23 member that was going to nominate you that was
24 intimidated out of doing so.

25 Did you do any investigation into

1 this allegation?

2 A. No, I did not do any additional --
3 just off of what Mr. Battle said is who
4 Mr. Kieffer reached out to.

5 Q. You indicate, on the second line of
6 Paragraph No. 5, this allegation is without
7 evidence.

8 Did IBEW seek any other evidence?

9 A. No.

10 Q. Did you review the sign that was
11 posted on the door at the nomination site in
12 connection with your decision with Mr. Battle's
13 protest?

14 A. Yes. He included it with his
15 protest.

16 Q. And did Mr. Battle indicate he found
17 the sign confusing?

18 A. In his protest, he did say it was
19 confusing to him.

20 Q. Did you determine that that sign
21 could have been interpreted the way that
22 Mr. Battle did?

23 A. I didn't. But, you know -- but I
24 can't speak for him.

25 Q. Did you determine whether

1 Mr. Battle's interpretation of the sign was a
2 reasonable one?

3 A. I guess it could be for him. I
4 mean, at the time, with the pandemic, some of
5 the requirements, rooms had to be limited to
6 size. So I can understand why the poster was
7 there to limit the number of people in the
8 meeting room.

9 Q. And if it was confusing for him,
10 wasn't that enough?

11 MR. KURNICK: Objection.
12 First of all, it's argumentative, it calls for
13 speculation and an inadmissible opinion, and a
14 legal opinion, now that I think of it. So it's
15 problematic for all sorts of reasons. Mike,
16 you can answer the question.

17 THE WITNESS: Okay. I'm
18 sorry.

19 To me, it looked like the maximum
20 number of people that one person could have
21 brought along, not saying that you had to have
22 -- all three of those people must be present.
23 It was just, that's who it was going to be
24 limited to.

25 Q. Did you determine Mr. Battle's

1 interpretation of the sign to be a reasonable
2 one, even if you came to a different
3 interpretation?

4 A. I can't speculate on what he
5 thought. I mean, I didn't see it as confusing.
6 I understand maybe he could have. I don't
7 know.

8 Q. But because you didn't find it
9 confusing, you denied his claim on that issue;
10 is that right?

11 A. Correct.

12 Q. So if you don't find it confusing,
13 does it matter whether the member found it
14 confusing?

15 MR. KURNICK: Same objection.
16 It's argumentive at this point. And you are,
17 ultimately, asking him for concession on a
18 legal issue. You're asking for a legal opinion
19 from him on what matters and what the standard
20 is for finding a violation of the LMRDA.

21 MS. DeBRUICKER: Because he's
22 the one who has to make that determination.
23 It's a fair question.

24 MR. KURNICK: But he doesn't
25 make legal decisions. He's not a lawyer, and

1 you're asking him for a legal opinion. I don't
2 mean to be difficult, but I have to raise these
3 objections.

4 MS. DeBRUICKER: I'm asking
5 him the basis for his determination of the
6 protest on the various points that are
7 addressed here.

8 MR. PODRAZZA: Well, why don't
9 you just have him read the page then? He puts
10 his full explanation out there. What more is
11 there? He's written it, it's right there. It
12 speaks for itself.

13 BY MS. DeBRUICKER:

14 Q. By the time you wrote this letter,
15 you had received Mr. Kieffer's report of his
16 conversation with Mr. McConnell; correct?

17 A. Correct.

18 Q. And there's no mention of
19 Mr. McConnell, as far as I can tell, in your
20 decision letter; is that correct?

21 A. Not by name. Right.

22 Q. Do you mention him in any other way?

23 A. In No. 5 there, we addressed that
24 there was supposedly somebody else who was
25 going to be nominated.

1 Q. You indicate, Representative Kieffer
2 did speak to a member who said that he had
3 contemplated running for office.

4 Is that what you're referring to?

5 A. Correct.

6 Q. And did you determine that the
7 conduct that Mr. McConnell described was not of
8 concern?

9 A. I didn't say that. He didn't want
10 us to pursue it. So that's why. We honored
11 his request not to pursue anything.

12 Q. So even if it was of concern, you
13 wouldn't have pursued it because he asked you
14 not to?

15 A. Correct.

16 Q. In Paragraph 6, you address
17 allegations relating to Business Agent Bark.
18 Did you base your determination on the
19 information reported by Mr. Kieffer?

20 A. Correct.

21 Q. Do you know why Mr. Bark came to
22 Mr. Battle's house on the first occasion?

23 A. No, I don't know why.

24 Q. Do you know why Mr. Bark came to
25 Mr. Battle's house on the second occasion?

1 A. No, I don't know why.

2 Q. When he came to Mr. Battle's house
3 on the second occasion, do you know the timing
4 of that visit with respect to the nomination?

5 A. Not at the time.

6 Q. Would that have been important to
7 you to determine?

8 A. I don't know if it would have been
9 important or not because -- I don't know what
10 the conversation was. I don't know what was
11 going on as far as the conversation they were
12 having. I don't know. Mr. Battle alluded to
13 the fact that he didn't know these people, but
14 we, actually, found out he did. He'd known
15 them for quite a few years.

16 Q. Did he say he didn't know these
17 people?

18 A. If you recall, I think back in his
19 complaint he said that he had people show up
20 that he really didn't know or knew vaguely.

21 Q. I don't recall anything about his
22 degree of knowledge about the people who showed
23 up. He certainly recognized Agent Bark.

24 Is it your understanding that on
25 both occasions, Mr. Bark showed up uninvited?

1 A. As far as I know.

2 Q. That Mr. Bark, on the first
3 occasion, didn't even tell Mr. Battle he was
4 there until he called from his driveway?

5 A. Yes. I guess that's how he noticed
6 he was there.

7 Q. Did you have an understanding as to
8 whether Mr. Bark's visit was welcomed by
9 Mr. Battle?

10 A. I'm sorry. Could you repeat that?

11 Q. Did you have an understanding as to
12 whether either of Mr. Bark's visits were
13 welcomed by Mr. Battle?

14 A. I guess the only way I can know that
15 they're unwelcome is, in his report, he said he
16 asked him to leave, I guess, the second time.
17 So you're asking me, do I know if he was
18 invited to the house, they weren't invited. I
19 didn't think they were.

20 Q. But did you determine that because
21 Mr. Battle knew Mr. Bark and Mr. Kee, that
22 these visits were not problematic?

23 A. Yes. I didn't think -- correct.

24 Q. By virtue of the fact that
25 Mr. Battle knew both Mr. Bark and Mr. Kee; is

1 that correct?

2 A. Correct.

3 Q. You conclude this paragraph with,
4 you did not find that either Agent Bark or
5 Brother Kee came to Mr. Battle's house to
6 intimidate him into not running for office.

7 Do you see that?

8 A. Correct.

9 Q. Does the intent of the actor matter
10 at all in determining whether someone is
11 intimidated?

12 MR. KURNICK: Objection.

13 Calls for a legal conclusion by the witness,
14 inadmissible opinion, and speculation. And,
15 Mike, you can answer the question.

16 THE WITNESS: I guess nothing
17 -- he didn't present anything -- said anything
18 that they were intimidating him other than he
19 was concerned why they showed up.

20 Q. In deciding the protest that alleges
21 a candidate was intimidated out of running,
22 does it matter to you whether the person whose
23 conduct is an issue intended their conduct to
24 be intimidating?

25 A. I don't know if that's what they

1 intended to do or not. I mean --

2 Q. What I'm asking is, does it matter
3 whether they intended their conduct to be
4 intimidating?

5 A. It would matter. But if I'm not
6 mistaken, I think they were -- basically, there
7 were some issues ongoing for a while where they
8 were trying to figure out what was up as far as
9 why he was being upset. That's what they were
10 being asked, and that's what they went to his
11 house for.

12 Q. But if I understand your answer, you
13 said it would matter or would not matter
14 whether they intended their conduct to be
15 intimidating?

16 A. I guess if it could be substantiated
17 that they were trying to be intimidating, it
18 would matter.

19 Q. Sorry. I'm just trying to hear you
20 clearly, you're saying it would matter or would
21 not?

22 A. If the facts could be substantiated,
23 I said it could matter -- or would matter. I'm
24 sorry. It could matter depending on taken as a
25 whole.

1 Q. Are you aware of the last time
2 Local 98 had a contested election? And by
3 contested, I mean had more than one person
4 running for a particular office.

5 A. I think back in the mid 2000s, they
6 had one.

7 Q. Do you know of other locals who have
8 contested elections so rarely?

9 A. I'm sorry. Can you repeat that?

10 Q. Do you know of other locals who have
11 contested elections as rarely as Local 98 does?

12 A. As rarely are you saying?

13 Q. Yes.

14 A. Yes. Like I said in the beginning,
15 out of all the local we have, there's very few
16 election protests.

17 Q. My question is, you said it was the
18 early 2000s, the last time Local 98 had a
19 contested election, meaning that more than one
20 person was running for office; do I have that
21 correctly?

22 A. Oh, you're talking about somebody
23 actually running for office. I'm sorry. I
24 thought you meant election protests.

25 Q. No. Contested elections, meaning

1 elections when more than one person is running
2 for office. Does that make sense?

3 A. Now, I understand. We have several
4 locals that, basically, it's the current group
5 of officers that get reelected year after year.

6 Q. But do they gets reelected with
7 someone challenging them or do they get
8 reelected by acclamation?

9 A. Many get renominated by acclamation.

10 Q. We looked at the IBEW constitution
11 which requires that members, in order to be
12 eligible to run for union office, have to be a
13 member in good standing. Do you recall looking
14 at that language?

15 A. Yeah. It's continuous good
16 standing. Not just good standing, it's
17 continuous good standing.

18 Q. Does the IBEW impose any additional
19 requirements on candidates to be qualified to
20 seek office?

21 A. No.

22 Q. IBEW doesn't require that the
23 candidate be running as part of a ticket to
24 seek office?

25 A. No.

1 Q. IBEW doesn't require that a
2 candidate meet any financial qualifications;
3 does it?

4 A. No.

5 Q. They don't have to have a campaign
6 war chest in order to run for office?

7 A. No.

8 Q. A candidate doesn't have to have a
9 dispute with incumbent leadership in order to
10 want to seek office; do they?

11 A. No.

12 Q. And having a dispute with the
13 incumbent officers doesn't disqualify a
14 candidate from running for office; does it?

15 A. Correct.

16 Q. A candidate doesn't have to have
17 attended a certain number of union meetings in
18 order to run for office; do they?

19 A. No.

20 Q. A candidate doesn't have to have
21 attended a certain number of Labor Day parades
22 in order to run --

23 A. No.

24 Q. A candidate doesn't have to have a
25 likelihood of winning in order to run for

1 office; do they?

2 A. No.

3 Q. Did anyone from the government
4 contact you during the period that IBEW was
5 investigating Mr. Battle's protest?

6 A. I'm sorry. I'm not exactly -- I had
7 an interview, I guess, with the Department of
8 Labor, but nobody during -- you're talking
9 about leading up to the election or leading up
10 to nominations?

11 Q. I'm talking about during IBEW's
12 investigation of Mr. Battle's election protest.

13 A. No. Nobody contacted us during our
14 investigation.

15 Q. Did anyone from the government try
16 to influence IBEW's investigation of
17 Mr. Battle's protest?

18 A. No.

19 Q. Did anyone from the government try
20 to influence the outcome of IBEW's
21 investigation of Mr. Battle's protest?

22 A. No.

23 Q. Do you know who Michael Coppinger
24 is?

25 A. I know the name, I don't know him.

1 Q. How do you know the name?

2 A. It came up in one of the things from
3 the Department of Labor, one of the decisions,
4 or the charges, I should say. It came up
5 there.

6 Q. At any point, did you learn of any
7 alleged attempt by Local 98 to pressure Michael
8 Coppinger out of seeking nomination in the
9 June 2020 election?

10 A. No. I knew nothing about that.

11 Q. And if someone had been intimidated
12 out of seeking nomination in the 2020 election,
13 would that be of concern to you or something
14 you would want to investigate?

15 MR. PODRAZZA: Objection.
16 Asked and answered multiple times.

17 THE WITNESS: If somebody
18 brought a protest to us, we would have
19 investigated the allegations.

20 BY MS. DeBRUICKER:

21 Q. Would you have investigated if a
22 formal protest had not been brought?

23 A. We have no way to do that. I mean,
24 we can't just go out and -- we don't have the
25 subpoena power, whatever, to just start going

1 out and try to fish for information and stuff
2 if nobody comes forward and gives us a charge.

3 Q. So if you have information but it
4 wasn't brought to you in the form of a charge,
5 does that mean you don't investigate it?

6 A. As a rule, if nobody's bringing it
7 to our attention, or if nobody's filing a
8 charge, we do not.

9 Q. And you say, as a rule. Is there a
10 rule?

11 A. No. I'm just stating it as a --

12 Q. As a common phrase?

13 A. Yeah.

14 Q. Understood. That's why I ask.

15 A. Okay.

16 Q. Do you know who Kenneth Rocks is?

17 A. I've heard the name, but I do not
18 know him.

19 Q. In what context have you heard the
20 name?

21 A. Probably going through the office --
22 you know, as far as -- I think he was involved
23 with one of the election protests in the past.
24 So I mean, just in passing. Like I said, I
25 don't know him.

1 Q. And you didn't have any involvement
2 with that past election protest; did you?

3 A. No.

4 Q. Did the fact that Mr. Rocks had
5 filed a previous protest, was that something
6 that you considered in your evaluation of
7 Mr. Battle's protest?

8 A. No. It had nothing do to with it.
9 I mean, they were two separate cases.

10 Q. If there have been past allegations
11 of intimidation, could you understand that
12 impacting members currently seeking nomination?

13 MR. KURNICK: Objection.
14 Calls for speculation. Calls for an opinion by
15 the witness. And, Mike, you can answer her
16 question.

17 THE WITNESS: I guess some
18 people's nature may be. I don't know. I mean,
19 if I want to run for office, I'll run for
20 office. Nobody's going to tell me I can't or
21 whatever. So I mean, I don't know how people
22 feel. I can't assume how other people would
23 take it.

24 BY MS. DeBRUICKER:

25 Q. Did Mr. Battle mention Mr. Rocks

1 during the course of your investigation of his
2 compliant?

3 A. I don't think so. I don't know if
4 any -- I don't recall anything.

5 Q. Are there things you have learned
6 since your decision on Mr. Battle's protest
7 that you think would have been important to
8 know in your evaluation of his protest?

9 A. I mean, some of the stuff came to
10 light as far as different people, but I don't
11 see anything that would really -- how things
12 came out as far as people came to light that
13 they're claiming they're intimidated and things
14 being said. I don't know if they would've
15 changed anything or not. I can't say for sure
16 until I took everything in total.

17 Q. When you say people coming to light,
18 what people are you referring to?

19 A. Well, you brought up Michael
20 Coppinger. I guess that was a name that was
21 not being told to anybody, and we found out
22 after the fact. I don't know if that would
23 have changed anything or not. I don't know.
24 I'd have to take in everything as a whole.

25 Q. Would the nomination form that

1 Mr. Battle signed have been something you
2 would have considered important to know during
3 your investigation?

4 A. I guess -- I don't know if it would
5 be important to know or not, but it would be
6 that -- like I said before, we had to look at
7 how the form was. It didn't list the
8 nominator. So I guess that would be still be
9 the same position. I don't know if -- I don't
10 want to go back into all that again. I mean,
11 it was a surprise because we didn't know
12 anything was submitted. But that's just a
13 surprise, I mean.

14 Q. We've heard information that
15 Local 98 only considered nominations that were
16 made in person the night of the nominations
17 meeting.

18 A. I'm not aware of that. Nobody else
19 came forward saying that their nomination was
20 discredited or not allowed.

21 I would assume that if anybody had
22 an issue, that we would have had to hear from
23 it by now or within the 30 days, I should say.

24 Q. If Local 98 considered only
25 in-person nominations and did not look at any

1 nomination forms at the nominations meeting,
2 would you consider that consistent with IBEW's
3 constitution?

4 MR. KURNICK: Objection.

5 Calls for speculation. Calls for an
6 inadmissible opinion. Mike, you can answer.

7 THE WITNESS: Okay. Starting
8 to get the hang of this. I don't know, though.

9 BY MS. DeBRUICKER:

10 Q. If Local 98 required nominations
11 only be made in person, would that be something
12 that would need to be reflected in their
13 bylaws?

14 A. Yeah, it should be. For the most
15 part, I mean, it's there in writing that you
16 can nominate using mail. I mean, I don't know
17 if they would want to go against that but --
18 I'm sorry. Maybe better re-ask the question
19 because it didn't look like I was answering
20 what you were asking.

21 Q. No, you did. In making decisions on
22 election protests, you make determinations as
23 to what is in compliance with IBEW's
24 constitution and rules and what's not; don't
25 you?

1 A. Constitution and bylaws. As you
2 saw, the bylaws spell stuff out, too.

3 Q. But you make a determination as to
4 whether a particular act of conduct complied
5 with those constitutions and bylaws or not;
6 correct?

7 A. Correct. When looking at election
8 protests, yeah.

9 Q. You don't need anybody's approval to
10 make that kind of determination on a protest;
11 do you?

12 A. No. I can make it on my own, yes.

13 Q. At what point did you learn that
14 Mr. Battle had signed a nomination form?

15 A. I'm trying to think for sure when it
16 was. I don't know if it was when we received
17 the documents from the Department of Labor.
18 I'm thinking that timeframe there.

19 Q. What documents did you receive from
20 the Department of Labor?

21 A. I guess it was the charges from the
22 Labor Secretary against the local.

23 Q. Mr. Kieffer indicated in his report
24 that the definition of intimidation is
25 subjective. Do you agree with that?

1 MR. PODRAZZA: I'll object to
2 that representation because that's not what he
3 said.

4 MR. KURNICK: You can answer,
5 Mike.

6 THE WITNESS: Okay. Yeah.
7 What's intimidation to me might not be
8 intimidation to somebody else. What somebody
9 else thinks is intimidation, I might not. I
10 mean, I guess it is subjective.

11 BY MS. DeBRUICKER:

12 Q. Mr. Kieffer indicated in his report
13 that the claims of intimidation were not
14 clearly proven. Do you recall reading that?

15 A. Correct.

16 Q. And is that the kind of
17 determination that you would expect a
18 representative to make in their investigation?

19 A. Yeah. I mean, if he can't conclude,
20 then he has to let me know, here are the facts
21 he found, and there are some things you find
22 that can't be substantiated.

23 Q. Does IBEW require something be
24 clearly proven? Is that the standard you
25 evaluate facts under?

1 A. We pretty clearly state -- I mean,
2 you don't want to go out and just ignore
3 things. I mean, usually, we try and make sure
4 that things are substantiated from the facts we
5 gather.

6 Q. Whether or not you agreed with him,
7 did you find Mr. Battle interpreted the local's
8 actions as intimidation?

9 A. I don't know the relationship
10 Mr. Battle has, and I don't know if I could say
11 the actions were intimidating or not. I don't
12 know the players down there as far as
13 Mr. Battle and how he thinks or anything. So I
14 can't say that.

15 Q. Whether or not you agreed with him,
16 could you see how Mr. Battle could have taken
17 the conduct he described as intimidation?

18 A. I don't know all the things that
19 were presented to him as far as -- cumulative
20 of everything that he's saying, was he
21 intimidated because of the elections? I don't
22 know.

23 Q. Did you make a determination as to
24 whether or not Mr. Battle felt intimidated by
25 the conduct alleged?

1 A. I'm sorry. You dropped out there a
2 little bit. Could you repeat it?

3 Q. Did you make a determination, in
4 deciding Mr. Battle's protest, whether he
5 construed the conduct to be intimidation?

6 MR. PODRAZZA: You're asking
7 this witness to crawl into the mind of Battle
8 and tell you whether Battle earnestly believed
9 what he was saying; is that what you're asking
10 this witness to do?

11 MS. DeBRUICKER: My question
12 stands.

13 MR. PODRAZZA: It's asking for
14 not only conjecture and speculation but
15 impossibility in determining what somebody else
16 thinks.

17 MR. KURNICK: Mike, you can
18 answer.

19 THE WITNESS: Like I said,
20 what I consider intimidation, what somebody
21 else considers intimidation could be two
22 different things. We try to look to see, did
23 he substantiate the fact that he was
24 intimidated. I don't think he did. So that's
25 why the decision was made the way it was.

1 BY MS. DeBRUICKER:

2 Q. So you found his claims of
3 intimidation to be unsubstantiated; do I have
4 that right?

5 A. Correct.

6 Q. Did you find his claims of
7 intimidation to be not credible?

8 A. I'm not saying not credible, I'm
9 just saying not substantiated to the fact that
10 he didn't run for office. I mean, in his eyes,
11 that's what he feels, that he was intimidated,
12 I guess.

13 Q. Why did McConnell's account not
14 substantiate Battle's claims?

15 A. Well, McConnell had a little bit
16 different account. And he, more or less,
17 didn't want any part of being involved with
18 Battle's appeal, protest, or whatever. I think
19 he made that pretty clear. He wanted no part
20 of what Battle was presenting.

21 Q. Right. But didn't his accounts of
22 his conversations with Mr. Dougherty and
23 conversations with Mr. Eddis and Mr. Ryan,
24 didn't that substantiate Mr. Battle's
25 allegations regardless of whether Mr. McConnell

1 wanted to be part of it or not?

2 MR. PODRAZZA: This has been
3 asked and answered. We've gone over the
4 Kieffer letter and investigation about what
5 McConnell said to Kieffer. And it's not what
6 you're saying, Counselor.

7 MR. KURNICK: Before you
8 answer, I also have to mention this objection.
9 The question is argumentative. You're saying
10 to him, why wasn't this sufficient, why didn't
11 you do this. And he's made his decision, he's
12 put his decision in writing. You know that
13 it's based, as he's testified, entirely on
14 Mr. Kieffer's report. So he didn't make his
15 own determinations of credibility, other than
16 based on what Mr. Kieffer reported to him.

17 So to argue now and try to convince
18 him that he was wrong, or that he should have
19 reached a different conclusion would seem to be
20 an improper line of questioning.

21 MS. DeBRUICKER: He's
22 testified that he found Mr. Battle's
23 description of being intimidated to be
24 unsubstantiated.

25 MR. KURNICK: Yes.

1 MS. DeBRUICKER: I'm asking
2 whether Mr. McConnell's account of what
3 happened to him substantiated any of
4 Mr. Battle's claims.

5 THE WITNESS: We didn't dig
6 further. We didn't substantiate. Like I said
7 before, in a couple of different answers
8 before, it could have been intimidation if we
9 could have substantiated it. When people tell
10 you they don't want to be involved, don't use
11 my name, don't bring my name up, I don't want
12 any part of it, I'm not part of his complaint,
13 I'm not part of his protest, I don't want
14 anything to do with it, you honor that person's
15 request.

16 And then the other two individuals,
17 if they had an issue, they could have come
18 forward and presented the issue just like
19 anybody else can. They could file an election
20 protest, if that's what they thought it was, or
21 they can file a complaint or charges. Nobody
22 elected to do that.

23 BY MS. DeBRUICKER:

24 Q. Did you find Mr. McConnell's account
25 of what happened to him to be not credible or

1 did you just not investigate it?

2 A. He didn't want anything done with
3 it, so it's not about whether it was credible
4 or not. He chose not to have any -- didn't
5 want to pursue it. He would have had to say
6 for us to pursue it if he wanted something
7 done, but he didn't. He made it pretty clear
8 that he didn't want any part of it. He just
9 wanted out.

10 MS. DeBRUICKER: I have no
11 further questions.

12 MR. PODRAZZA: Mr. Welsh, it's
13 been a pleasure seeing you. Thank you for your
14 time. I have no questions.

15 MR. KURNICK: I just have two
16 questions. It'll take 30 seconds, Mike, I
17 promise.

18 THE WITNESS: That's okay.

19 EXAMINATION

20 BY MR. KURNICK:

21 Q. Do you recall whether, in his report
22 that he submitted to you, Randy Kieffer
23 included a copy of a blank nomination form?

24 A. Yes, he did.

25 Q. Okay. This last point, do you have

1 any personal knowledge about Michael
2 Coppinger's efforts to run for a local union
3 office?

4 A. No, not at all.

5 MR. KURNICK: That's all I
6 have. Thank you.

7 THE REPORTER: Mr. Kurnick,
8 would you like a copy.

9 MR. KURNICK: Yes.

10 THE REPORTER: Mr. Podrazza,
11 would you like a copy?

12 MR. PODRAZZA: I would, yes,
13 please.

14 (At 6:01 p.m., the deposition
15 was concluded. Signature was not waived.)

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

- - -

I, Michael Welsh, do hereby
certify that I have read the foregoing
transcript and it is a true and correct copy of
my deposition, except for the changes, if any,
made by me on the attached Deposition
Correction Sheet.

Date

1	ERRATA SHEET		REASON FOR
2	PAGE	LINE	CHANGE / CORRECTION
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24			
25			

4 I, Jonathan MacDonald, a notary public in
and for the Commonwealth of Pennsylvania, do
5 hereby certify that the witness, Michael Welsh,
was by me first duly sworn to testify the
6 truth, the whole truth, and nothing but the
truth; that the foregoing deposition was taken
7 at the time and place stated herein; and that
the said deposition was recorded
8 stenographically by me and then reduced to
typewriting under my direction, and constitutes
9 a true record of the testimony given by said
witness.

IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal of office this 23rd
day of September 2021.

18
19
20
21
22
23
24
25

Ex. E



**IBEW Local 98
Nominations 2020**

****The ONLY Members allowed
into the building will be:**

- the Nominated Candidate**
- the Member nominating
the Candidate**
- the Member seconding the
nomination**

***Please see the Door Worker
to be granted access.***

Ex. F

UNION OFFICIAL INTERVIEW QUESTIONNAIRE

Personal Information

Name: Mr. Brian Burrows
Address: 16 Michaelson Drive
 Moorestown, NJ 08054

Phone: (215) 588-7470

Union: Electrical Workers Local 98

Mailing Address: 1701 Spring Garden Street
 Philadelphia, PA 19130

Phone: (215) 563-5592

Title: President

Time in Current Office: 12 years

Length of Union Membership: 40 years

Employer: Electrical Workers Local 98

Address & Phone: 1701 Spring Garden Street
 Philadelphia, PA 19130
 (215) 563-5592

Length of Employment: 23 years

☒ **Full Time Officer**

☐ **Part Time Officer**

Interview Date: September 3, 2020 **Date Drafted:** September 4, 2020 **Date Completed:** September 4, 2020

Interview Location: Philadelphia, PA

By: *Nicole Spallino* and Investigator *Angela Menges* **Case File:** 140-6019880 (01)

RI – Mr. Brian Burrows
September 3, 2020
Page 2 of 11

Union Officer Positions Held/Dates: 1990- Local 98 Election Board
1997-2008- Local 98 Training Director for the Apprentice Training
Fund
2008-Present- Local 98 President

Official Role/Duties in Challenged Election:

No official role.

Candidate in Challenged Election: ☒ **Yes** ☐ **No**

If yes, Office: President

RI – Mr. Brian Burrows
 September 3, 2020
 Page 3 of 11

Union Background

Number of Members: 4,000	Type of Members:	Dues paying members who would be eligible to participate in the election process. (Retirees and apprentices cannot participate in election process.)				
Number of Employers: Approximately 300						
Major Employer/Locations: Shaeffer Electric (unsure of headquarters) Hatzel & Buehler (nationwide) Gordon Group (Pennsylvania)						
CBA with Interstate Employer: <div style="display: inline-block; margin-left: 20px;"> <input checked="" type="checkbox"/> Yes </div> <div style="display: inline-block; margin-left: 100px;"> <input type="checkbox"/> No </div>						
If yes, Employer:	The union is a signatory to the “Pen-Del-Jersey” Contractors Association (National Electrical Contractors Association)					
Jurisdiction (Geographic/Occupational):						
Members of IBEW Local 98 are employed as electricians in Philadelphia, Montgomery, Delaware, Bucks, and Chester Counties of Pennsylvania. The union’s jurisdiction also extends to Allentown, PA. IBEW Local 98 Attorney William Josem indicated during the interview that Local 98 staff members are also Local 98 members. Clerical staff members are members of an OPEIU local.						
<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;"> Union Physical Street Address (location to direct legal documents): </td> <td style="width: 40%;"> Telephone: </td> </tr> <tr> <td> 1701 Spring Garden Street Philadelphia, PA 19130 </td> <td> (215) 563-5592 </td> </tr> </table>			Union Physical Street Address (location to direct legal documents):	Telephone:	1701 Spring Garden Street Philadelphia, PA 19130	(215) 563-5592
Union Physical Street Address (location to direct legal documents):	Telephone:					
1701 Spring Garden Street Philadelphia, PA 19130	(215) 563-5592					
<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;"> Attorney/Firm: </td> <td style="width: 40%;"> Telephone: </td> </tr> <tr> <td> William Josem, Cleary & Josem LLP 325 Chestnut Street Philadelphia, PA 19106 </td> <td> (215) 735-9099 </td> </tr> </table>			Attorney/Firm:	Telephone:	William Josem, Cleary & Josem LLP 325 Chestnut Street Philadelphia, PA 19106	(215) 735-9099
Attorney/Firm:	Telephone:					
William Josem, Cleary & Josem LLP 325 Chestnut Street Philadelphia, PA 19106	(215) 735-9099					
Membership Meetings (Frequency/Location):						
Membership meetings are held the 4 th Tuesday of every month at the IBEW Local 98 union hall for the members designated as “south” members. Local 98 members in the sound and telecommunications division have membership meetings the 2 nd Tuesday of each month at the union hall. Members located in the Collegeville, PA area have union meetings quarterly at a building owned by IBEW Local 98 in the Collegeville, PA area.						
Executive Board Meetings (Frequency/Location):						
Every Thursday at 4:00 pm at the union hall. After the e-board meeting, at 4:30, the meeting is open to members to bring up concerns to the e-board.						

RI – Mr. Brian Burrows
 September 3, 2020
 Page 4 of 11

Union Governing Documents/Dates: 1) Bylaws of Local Union 98 International Brotherhood of Electrical Workers, dated 4/17/2020.
 2) International Brotherhood of Electrical Workers Constitution and Rules for Local Unions and Councils Under Its Jurisdiction, September 2016.
 3) IBEW Practical & Policy Book

Nomination Procedures

NOMINATION NOTICE

Date(s): May 18, 2020

Method(s): Mailed to members' home addresses.

NOMINATIONS

Date(s): June 9, 2020

Time: 7:00 pm

Location: Union Hall
 1719 Spring Garden Street
 Philadelphia, PA 19130

Term of Office: 3 years

Number of Positions on Ballot: 13

LMRDA Officer Positions: President, Vice President, Treasurer, Business Manager/ Financial Secretary, Recording Secretary, Executive Board (5)

Non-LMRDA Positions:



Yes



No

If yes, list:

Examining Board (3)

Description of Nominating Procedures:

See narrative for nominating procedures.

Uncontested Positions:



Yes



No

If yes, Identify:

All races were uncontested.

ELECTION OFFICIALS

RI – Mr. Brian Burrows
 September 3, 2020
 Page 5 of 11

Names/Telephone: No election officials were selected because all races were uncontested. If the election was contested, an election board would have been elected at the nomination meeting. The union hired Elections USA to attend their nomination meeting. In the event there was a contested election, Elections USA would have facilitated the election for election board. There were some individuals who campaigned for their positions on the potential election board.

Selection Method/Date: n/a

Other Nomination Information: See narrative

Election Mechanics

ELECTION NOTICE

Date(s): All races were uncontested, therefore the union did not hold an election.

Method(s):

ELECTION TYPE

☐ Polls

☐ Mail

☐ Polls/Mail Ballot

☐ Polls/Absentee Ballot

Regular, periodic election of officers: ☐ Yes ☐ No

POLLS

Date(s):

Time(s):

Place(s):

Polling Place Procedures:

Mail Ballot Procedures:

Campaign Mailings: ☐ Yes

☐ No

Slates: ☐ Yes

☐ No

Details:

RI – Mr. Brian Burrows
 September 3, 2020
 Page 6 of 11

Candidate Observers Present: ☐ Polls ☐ Ballot Tally ☐ Ballot Mailing

BALLOT TALLY

Date:

Time:

Location:

Date Results
 Announced:

Recount:

☐ Yes

☐ No

Date:

Other Election Information:

Complaint to the Secretary of Labor

Complainant: Charles Battle

In Good Standing at Time of Election: ☒ Yes

☐ No

At Time of Complaint to DOL: ☒ Yes

☐ No

If no, explain: n/a

Election Protest/Appeal Constitution Provisions:

IBEW Basic Laws & Policies, Revised October 2005:

Pre-Election Protest: To the election judge in writing if one has been appointed and then with the appropriate International Vice President in writing. (No time limit stated.) The decision of the International Vice President is final.

Post-Election Protest: To the appropriate International Vice President in writing within 30 days of certification of the election results by the election judge. The decision of the International Vice President is final.

Initial Protest To/Title: IBEW International Vice President Michael Welsh Date: June 16, 2020

Union Response: ☒ Yes ☐ No Date: July 31, 2020

Appeal To/Title: Date:

Union Response: ☐ Yes ☐ No Date:

RI – Mr. Brian Burrows
 September 3, 2020
 Page 7 of 11

Complainant properly followed union election protest procedures: ☒ Yes ☐ No ☐ Not Sure

If no or not sure, why?: n/a

Interviewee's role in handling the protest: None.

Union Records Provided:

☒ Constitution/Bylaws ☐ Election Rules ☒ Nomination Notice ☒ Meeting Minutes
☐ Election Notice ☐ Mail Ballot Package ☐ Ballot ☐ Polling Place Records ☐ Election Results

Other: 1) "Nomination Slip for Candidates for Office" regarding the IBEW Local 98 2020 Election of Officers.
 2) Meeting Minutes- "Notified Meeting for Nominations of Officer- Tuesday, June 9, 2020 7:00 pm"
 3) Nomination Forms and meeting minutes regarding the 2017 Nomination of IBEW Local 98 Officers.
 4) Several pictures of the nomination meeting room on the day of nominations and the exterior of the union hall on the day of nominations.
 5) "IBEW Local 98 Nominations 2020" sign hung on the outside door of the IBEW Local 98 union hall.
 6) Nominations Notice and Nomination and Election Notice dated May 18, 2020.

In addition to the information contained in the preceding questionnaire, Mr. Burrows provided the following information in the presence of IBEW Local 98 Attorney Bill Josem of Cleary & Josem and IBEW Local 98 in-house counsel Jack O'Neill:

Nomination Procedures

This election cycle was different because usually nominations are held the 1st Tuesday in May and elections are held the last Saturday in June. In light of COVID-19, nominations were postponed. Due to COVID-19, Local 98 reached out to IBEW International Representative Randy Kieffer to determine if any other local in the area held an election. Kieffer advised that IBEW Local 3 in New York, which is five or six times larger than Local 98, was moving forward with their election. Local 98 adopted guidelines pertaining to COVID-19 from Local 3. Local 3's notice and procedures were approved by DOL and the international, so therefore Local 98 followed Local 3's policies. IBEW Local 98's nomination notice must go out 20 days prior to nominations as per Article III, Section 9 of the Local 98 bylaws. The language in the nomination notice was drafted and reviewed by IBEW Local 98 attorneys Jack O'Neill and Bill Josem.

Based on the amount of space in the IBEW Local 98 meeting room, only 50 people at one time were permitted in the room where nominations were held. *(Burrows provided OLMS with pictures of the meeting room. The pictures were taken on the day of the nomination meeting in case the city questioned whether or not the union did anything prohibited according to COVID 19 restrictions).* The union also hired a company called Med Tech to take everyone's

RI – Mr. Brian Burrows
September 3, 2020
Page 8 of 11

temperatures before entering the meeting room. If more than 50 people would have wanted to participate in the nomination meeting, the meeting would have been conducted in shifts beginning with the line officers. If a member wanted to know if a particular individual was nominated in the first shift/wave of nominations, so that they would not chance running against a friend, they could have just talked to each other between waves.

Since the meeting room space was limited, the union put a sign on the front door of the union hall as well as the back door in the parking lot that only candidates, nominators, and the person seconding the nomination would be permitted in the union hall.

The nomination notice instructed members who were seeking nomination to submit an acknowledgement of willingness to run for office by 5:00 pm on June 9, 2020. This form was not a requirement. If an individual did not fill out this form, they would still be granted entry to the nomination meeting. The acknowledgement of willingness form was so the union did not have over 50 people in the meeting space at one time. There is no particular reason why the nomination form included a line for which office the nominee was seeking. If a member wishing to be nominated for office did not go to the nomination meeting, the member would still need to have someone go to the meeting for them to make the nomination. Someone has to be present to be nominated.

Self-nominations are permitted. Nomination seconds are not required. There is nothing in the local's governing documents that says seconds are required. The governing documents are silent on self-nominations and Burrows is not aware of any candidate in prior elections who submitted a self-nomination; it may have occurred in the 1990s. Self-nomination is not a past practice of the union. *(Attorney Josem added that there are no governing documents that say you cannot self-nominate. Even OLMS's model nomination notice does not mention self-nominations; the union does not have to include every negative possibility of nomination submissions.)* The nomination form filled out by Complainant Battle alone is not sufficient for a nomination; he would still have to attend the meeting or have someone else go to the meeting for him to submit a nomination. *(Local 98 Attorney Jack O'Neill added that the nomination notice is clear, and that he cannot see the ambiguity of the notice, or think of another way to interpret the notice; the notice lists where, and when the nominations will be. If anyone had questions about the process, they could have asked the union and the union would have made sure they had an answer).*

Regarding International Representative Kieffer's report specifically Kieffer's statement:

"Brother Battle may have been confused but he could have self-nominated himself on the nomination paperwork or just attended the meeting and nominated himself. If he would have done either he would have been an official candidate for office."

Attorneys Josem and O'Neill stated they had not yet seen Kieffer's investigative report. When asked why if Battle submitted his nomination form as is, why it would not be considered a self-nomination, Attorney Bill Josem stated someone has to be present at the meeting. If a nominee can't be there, the nominee can signify their willingness to run, "it's always been that way."

RI – Mr. Brian Burrows
September 3, 2020
Page 9 of 11

Regarding the IBEW Local Election Guide, Attorneys Josem and O'Neill had never seen this document. When asked specifically about the nomination procedures outlined in this guide, particularly, "Written acceptance of a nomination must be presented at the meeting when nominations are held. Members who are not in attendance can make or accept nominations by written letter," and whether or not the nomination form is a letter, the attorneys had different clarifications.

On the day of the nomination meeting, Battle came into the union hall to fill out the nomination paperwork. Local 98 employee Tara Chupka gave Battle the paperwork. He told Chupka that the person who was going to nominate him had not arrived yet. Chupka told Battle that was okay, and that his paperwork would be here. *(Attorney Josem added, just because someone turned in the nomination slip, does not mean they would end up being nominated.)*

Burrows would not allow Battle to review the nomination slips already filled out by other individuals because the union has never allowed anyone in the past to see the forms. Burrows did not review the forms for himself, and does not know if any other incumbent officer reviewed the forms prior to the nomination meeting. *(Attorney Josem added that people should learn at the same time who is running for office.)*

Burrows believes that Local 98 Sergeant-at-Arms Rodney Walker maintained the forms because he eventually came up with a list of individuals for the nomination meeting. Burrows has historically filled out nomination forms prior to the meeting for himself just in case there was an emergency and he could not make it to the nomination meeting. For every nomination meeting, there have always been forms for someone who is unable to make the nomination meeting. If a member couldn't make it to the nomination meeting, they'd fill out the form. *(Attorney Josem added, that this was not unusual, you can either nominate yourself, or have someone else nominate you. OLMS further asked, "If someone cannot make it to the meeting, or find someone to nominate them at the meeting, then they are screwed?" Josem said "yeah, or ask us what to do.")*

Attorney Jack O'Neill added that Complainant Battle has a chip on his shoulder because his son-in-law was not able to get into the union after failing a drug test. There is no secret that Battle just wants to cause havoc in the union. Attorney Josem added that he (Josem) finds Battle's protest to be disingenuous based on what he read in the protest and the international's response. Josem questions why Battle was at the nomination meeting if his nominator bailed out one hour before the meeting and he thought he could not self-nominate. O'Neill explained that Complainant Battle created a website that published "awful things" about the Local 98 office staff. The website postings were involving sexual and criminal allegations. Some office staff members are pursuing individual defamation lawsuits. Local 98 is also a party to the lawsuit against Battle. The union knows it was Battle who created the website because it was revealed during the discovery portion of the lawsuit. The company that created the website and hosted it for Battle turned him over as part of the discovery process. The attorney for the Battles

RI – Mr. Brian Burrows
September 3, 2020
Page 10 of 11

contacted the newspaper to get his name in the press. The paper called Local 98 for comment, but union officials declined to comment.

Burrows has “no idea” who was supposed to nominate Battle. Burrows saw Battle standing with four or five other guys in the parking lot on the day of the nomination meeting. Burrows did not know who the guys were. Burrows did not know that Battle had the intention to run for union office prior to the day of nominations. During a membership meeting, Battle said he was not running for union office.

Alleged Intimidation

Burrows cannot recall if he attended the business agent meeting that took place the day before the nomination meeting. Burrows does not usually attend business agent meetings. Aside from business agents, Business Manager John Dougherty and Local 98 employee Tara Chupka attend business agent meetings. Local 98 Safety Coordinator Mark Lynch would have attended the meeting as well.

Burrows does not have any firsthand information regarding business agents being instructed to dissuade or intimidate any other member from running for union office. Burrows has “no idea” about any reprisal that a member would have received for running for union office. Burrows has no knowledge of Business Agent Bob Bark going to Battle’s house the Sunday before the nomination meeting. Burrows referred OLMS to Bark for further information regarding his visit to Battle’s home. It is Burrow’s understanding that Battle and Bark were friends for years. Burrows has no firsthand knowledge of any reprisal or financial hardship that member/ 2014 Candidate for Executive Board Ken Rocks, allegedly received for running for union office in 2014. When asked about a \$50,000 fine imposed on Ken Rocks that was later dismissed by the international union, Burrows could not recall if that happened but stated it had nothing to do with Rocks running for office. *(IBEW Local 98 Attorney Josem added that members are brought up on all sorts of charges for various violations of the union’s membership, such as working on non-union jobs, and some have been fined up to \$100,000.)* As far as Burrows is aware, Rocks has never had a problem working.

Burrows was contacted by an official of the IBEW international informing him of the receipt of Battle’s protest, but not for an interview. Burrows does not know if Business Manager Dougherty was contacted by the international concerning the allegations in the protest.

Changes to IBEW Local 98 Bylaws

In 2015, IBEW Local 380 merged with IBEW Local 98 and therefore IBEW Local 98 needed to update their local bylaws. Prior to the December 2019 membership meeting, a notice was mailed to the membership regarding changes to the local’s bylaws. During the December 2019 membership meeting, the first reading of the bylaw changes took place. At the January 2020 meeting there was a second reading and a vote to pass the bylaw changes. None of the election

RI – Mr. Brian Burrows
September 3, 2020
Page 11 of 11

procedures outlined in the prior bylaws changed during this update. Copies of the new bylaws were not mailed to the members but are available at the union's financial office and anyone can get a copy upon request.

Ex. G



Compressed Transcript of the Testimony of
TARA D. CHUPKA, ESQUIRE, 9/8/21

Case: Walsh v. Local 98

Summit Court Reporting, Inc.
Phone: 215.985.2400
Fax: 215.985.2420
Email: depo@summitreporting.com
Internet: www.summitreporting.com

Walsh v. Local 98**TARA D. CHUPKA, ESQUIRE, 9/8/21**

<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA</p> <p style="text-align: center;">---</p> <p>MARTIN J. WALSH, : CIVIL ACTION Secretary of Labor, : United States : Department of Labor, : : Plaintiff, : : VS. : : LOCAL 98, INTERNATIONAL: BROTHERHOOD OF : ELECTRICAL WORKERS, : : Defendant. : NO. 21-CV-96</p> <p style="text-align: center;">---</p> <p>Videotaped deposition of TARA D. CHUPKA, ESQUIRE, taken at U.S. Department of Justice, United States Attorney's Office, 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania, on Wednesday, September 8, 2021, beginning at approximately 2:10 p.m., before Robin Frattali, Professional Court Reporter and Notary Public in and of the Commonwealth of Pennsylvania.</p> <p style="text-align: center;">---</p> <p>SUMMIT COURT REPORTING, INC. Certified Court Reporters and Videographers 1500 Walnut Street, Suite 1610 Philadelphia, Pennsylvania 19102 424 Fleming Pike, Hammonton, New Jersey 08037 (215) 985-2400 * (800) 447-8648 * (609) 567-3315 www.summitreporting.com</p>	<p style="text-align: right;">Page 3</p> <p>1 ALSO PRESENT: 2 3 ANNA LAURA BENNETT, ESQUIRE Senior Attorney 4 Division of Civil Rights and Labor Management Officer of the Solicitor 5 U.S. Department of Labor (Present via telephone) 6 7 JOHN "JACK" O'NEILL, ESQUIRE 8 Attorney and Chief of Staff IBEW Local Union 98 9 10 SIROD DENNY 11 Legal Videographer 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 U.S. DEPARTMENT OF JUSTICE UNITED STATES ATTORNEY'S OFFICE 4 Eastern District of Pennsylvania BY: LAUREN DeBRUICKER, ESQUIRE 5 Assistant United States Attorney 615 Chestnut Street 6 Suite 1250 Philadelphia, Pennsylvania 19106-4476 7 (215) 861-8492 lauren.debruicker@usdoj.gov 8 Counsel for Plaintiff 9 10 LAMB McERLANE PC BY: JOSEPH R. PODRAZA, JR., ESQUIRE 11 One South Broad Street Suite 1500 12 Philadelphia, Pennsylvania 19107 (215) 609-3170 jpodraza@lambmcerlane.com 13 Counsel for Defendant 14 15 16 CLEARY, JOSEM & TRIGIANI, LLP BY: WILLIAM T. JOSEM, ESQUIRE 17 325 Chestnut Street Suite 200 18 Philadelphia, Pennsylvania 19106 (215) 735-9099 wtjosem@cjtllaw.org 19 Counsel for Defendant 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX 2 --- 3 WITNESS: PAGE 4 TARA D. CHUPKA, ESQUIRE 5 EXAMINATION 6 By Ms. DeBruicker 8,71 7 By Mr. Podraza 64,72 8 9 EXHIBITS 10 11 PAGE FIRST EXHIBIT NO. DESCRIPTION REFERENCED 12 Chupka-1 Nomination Slip for Candidates 43 for Office, Bates stamped 13 DOL_LOCAL 98_00298 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 (Pages 1 to 4)

SUMMIT COURT REPORTING, INC.**215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com**

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 5	Page 7
<p>1 DEPOSITION SUPPORT INDEX</p> <p>2</p> <p>3 DIRECTIONS NOT TO ANSWER:</p> <p>4 PAGES: None</p> <p>5</p> <p>6 REQUESTS FOR DOCUMENTS OR INFORMATION:</p> <p>7 PAGES: None</p> <p>8</p> <p>9 STIPULATIONS AND/OR STATEMENTS:</p> <p>10 PAGES: 6</p> <p>11</p> <p>12 CERTIFIED QUESTIONS:</p> <p>13 PAGES: None</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Chestnut Street, Suite 1250, Philadelphia,</p> <p>2 Pennsylvania 19106. Today's date is</p> <p>3 September 8th, 2021, and the time on the</p> <p>4 video record is 2:13 p.m.</p> <p>5 My name is Sirod Denny and I am</p> <p>6 the videographer. The court reporter is</p> <p>7 Robin Frattali.</p> <p>8 Counsel, will you please</p> <p>9 introduce yourselves and affiliation and the</p> <p>10 witness will be sworn.</p> <p>11 MS. DeBRUICKER: Lauren</p> <p>12 DeBruicker, Assistant U.S. Attorney, for the</p> <p>13 Secretary of Labor.</p> <p>14 MR. PODRAZA: Joe Podraza on</p> <p>15 behalf of defendant IBEW Local 98, and also</p> <p>16 representing the witness for today, and with</p> <p>17 me is Bill Josem.</p> <p>18 MR. JOSEM: Bill Josem, also</p> <p>19 representing defendant.</p> <p>20 - - -</p> <p>21 TARA D. CHUPKA, ESQUIRE, having</p> <p>22 been first duly sworn to tell the truth, was</p> <p>23 examined and testified as follows:</p> <p>24 - - -</p> <p>25 EXAMINATION</p>
Page 6	Page 8
<p>1 MR. PODRAZA: I represent the</p> <p>2 witness. We will read and sign, and we'll</p> <p>3 take copies of the videotape, as well, and</p> <p>4 the transcript as well. Might as well get</p> <p>5 that out of the way.</p> <p>6 - - -</p> <p>7 (By agreement of counsel, the</p> <p>8 sealing, certification and filing are</p> <p>9 waived; and all objections, except as to</p> <p>10 the form of the question, are reserved</p> <p>11 until the time of trial.)</p> <p>12 - - -</p> <p>13 THE VIDEOGRAPHER: This is</p> <p>14 media number one for the videotaped</p> <p>15 deposition of Tara Chupka in the matter of</p> <p>16 Martin J. Welsh, Department of Labor,</p> <p>17 Plaintiff, versus the International</p> <p>18 Brotherhood of Electrical Workers, Local 98,</p> <p>19 Defendants, being heard before the United</p> <p>20 States District Court for the Eastern</p> <p>21 District of Pennsylvania, Civil Action</p> <p>22 number 21-CV-96.</p> <p>23 This deposition is being held</p> <p>24 at the United States Attorney's Office,</p> <p>25 Eastern District of Pennsylvania, 615</p>	<p>1 BY MS. DeBRUICKER:</p> <p>2 Q. Good afternoon, Ms. Chupka.</p> <p>3 A. Hi.</p> <p>4 Q. We spoke when you came in. I'm Lauren</p> <p>5 DeBruicker. I'm the attorney for the Secretary of</p> <p>6 Labor in a civil action that the Secretary of</p> <p>7 Labor has brought alleging that Local 98 violated</p> <p>8 the Labor Management Reporting and Disclosure Act</p> <p>9 of 1959 in connection with its June 2020 officer</p> <p>10 elections.</p> <p>11 Have you ever been deposed</p> <p>12 before?</p> <p>13 A. Not that I can recall.</p> <p>14 Q. Okay. Have you ever taken a</p> <p>15 deposition before?</p> <p>16 A. No, I have not.</p> <p>17 Q. Have you ever defended a deposition</p> <p>18 before?</p> <p>19 A. No.</p> <p>20 Q. I expect your counsel has given you</p> <p>21 sort of the run-down as to how these things work.</p> <p>22 We do have you on video. We have our court</p> <p>23 reporter here, all to take down on record what we</p> <p>24 say.</p> <p>25 The goal is to have a clear</p>

2 (Pages 5 to 8)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 9</p> <p>1 record of my questions and your answers, and so to</p> <p>2 that end, it's important that you listen to my</p> <p>3 whole question before you answer, and I'll do my</p> <p>4 best to listen to your whole answer before I ask</p> <p>5 my next question. Okay?</p> <p>6 A. Thank you.</p> <p>7 Q. If you don't understand my question,</p> <p>8 will you let me know?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And if you don't hear my</p> <p>11 question, will you let me know?</p> <p>12 A. Yes.</p> <p>13 Q. Very good.</p> <p>14 Again, all in the interest of</p> <p>15 having a clear record, and if you answer my</p> <p>16 question, I'll assume that you both heard it and</p> <p>17 understood it. Okay?</p> <p>18 A. Yes.</p> <p>19 Q. Did you do anything to prepare for</p> <p>20 this deposition today?</p> <p>21 A. I met with my attorney last week.</p> <p>22 Q. Okay. And who was that attorney?</p> <p>23 A. Joe Podraza.</p> <p>24 Q. Did you meet with anyone else?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 11</p> <p>1 THE REPORTER: Thank you.</p> <p>2 BY MS. DeBRUICKER:</p> <p>3 Q. Are you a member of Local 98?</p> <p>4 A. Yes.</p> <p>5 Q. How -- when did you become a member of</p> <p>6 Local 98?</p> <p>7 A. I believe I became a member of</p> <p>8 Local 98 in approximately 2013.</p> <p>9 Q. Are you currently employed by</p> <p>10 Local 98?</p> <p>11 A. Yes.</p> <p>12 Q. What is your current position at</p> <p>13 Local 98?</p> <p>14 A. In-House Counsel.</p> <p>15 Q. And how long have you held that</p> <p>16 position?</p> <p>17 A. Approximately 2013.</p> <p>18 Q. Do I take it that you became a member</p> <p>19 about the time that you were hired for Local 98?</p> <p>20 A. No.</p> <p>21 Q. Help me understand that.</p> <p>22 A. I have been working for Local 98 in</p> <p>23 some capacity since I was 16, 17, and in 2013 was</p> <p>24 when I became In-House Counsel.</p> <p>25 Q. I see.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Did you review any documents to</p> <p>2 prepare for today?</p> <p>3 A. Yes. I reviewed my interview from the</p> <p>4 original DOL interview in 2020 sometime.</p> <p>5 Q. Did you review anything else?</p> <p>6 A. No.</p> <p>7 Q. Did you review any of the transcripts</p> <p>8 of the depositions that have been taken in this</p> <p>9 case so far?</p> <p>10 A. No.</p> <p>11 Q. Is there any reason why you wouldn't</p> <p>12 be able to provide complete and truthful testimony</p> <p>13 today?</p> <p>14 A. No.</p> <p>15 Q. No family issues distracting you? No</p> <p>16 medications that might affect your ability to</p> <p>17 recall facts or speak accurately?</p> <p>18 A. No.</p> <p>19 Q. We have to ask the questions. They're</p> <p>20 awkward.</p> <p>21 THE REPORTER: I didn't hear</p> <p>22 you, Lauren.</p> <p>23 BY MS. DeBRUICKER:</p> <p>24 Q. We have to ask the questions, they're</p> <p>25 awkward, so I apologize.</p>	<p style="text-align: right;">Page 12</p> <p>1 And did you become a member</p> <p>2 about the time that you became In-House Counsel?</p> <p>3 A. Approximately about that time frame.</p> <p>4 Q. When -- about what year did you first</p> <p>5 start working for Local 98?</p> <p>6 A. I'm thirty-seven. 20 years ago.</p> <p>7 2001, give or take, approximately.</p> <p>8 Q. And I don't want to dwell on it too</p> <p>9 much, but can you give me a sense of when you</p> <p>10 started for Local 98, what was your position?</p> <p>11 A. Sure. In the beginning, when I</p> <p>12 started working for Local 98, it was a strictly</p> <p>13 clerical role. I likely held that clerical role</p> <p>14 until approximately 2006.</p> <p>15 Q. And in 2006, did you take on another</p> <p>16 position for --</p> <p>17 A. I would --</p> <p>18 Q. -- Local 98?</p> <p>19 A. I would say that I was -- I moved from</p> <p>20 clerical to Executive Assistant to the Business</p> <p>21 Manager.</p> <p>22 Q. And who was the Business Manager at</p> <p>23 that time?</p> <p>24 A. John J. Dougherty.</p> <p>25 Q. And it's my understanding that he has</p>

3 (Pages 9 to 12)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 13	Page 15
<p>1 been Business Manager since that time, correct?</p> <p>2 A. Yes.</p> <p>3 Q. So you became Executive Assistant to</p> <p>4 the Business Manager around 2006.</p> <p>5 A. Yes.</p> <p>6 Q. At some point did you take on another</p> <p>7 position?</p> <p>8 A. I attended Temple Law in the evening,</p> <p>9 and I passed the bar exam in 2013. After passing</p> <p>10 the bar exam, around that time period, I had took</p> <p>11 on more of a legal role and would say In-House</p> <p>12 Counsel.</p> <p>13 Q. Would you describe yourself as having</p> <p>14 done legal work for Local 98 prior to becoming</p> <p>15 In-House Counsel?</p> <p>16 A. No.</p> <p>17 Q. And can you sort of give me a job</p> <p>18 description of what you do as In-House Counsel.</p> <p>19 A. I consider myself one of the liaisons</p> <p>20 between our outside counsel and our building.</p> <p>21 Q. When you say "building," what do you</p> <p>22 mean?</p> <p>23 A. Excuse me. The Union, itself.</p> <p>24 Q. Okay. And as a -- as a liaison, can</p> <p>25 you tell me what that means.</p>	<p>1 How far down and how much more questioning</p> <p>2 do you have on this?</p> <p>3 MS. DeBRUICKER: I'm going to</p> <p>4 keep asking my questions, and the faster I</p> <p>5 can do that, the faster we'll get out of</p> <p>6 here.</p> <p>7 MR. PODRAZA: Well, then I'll</p> <p>8 do some instructing.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: Could you repeat</p> <p>11 the question? I apologize.</p> <p>12 BY MS. DeBRUICKER:</p> <p>13 Q. You -- you describe your role as -- as</p> <p>14 sort of mixed. Could you give us sort of a rough</p> <p>15 percentage of what you would describe as your sort</p> <p>16 of purely legal work, as opposed to other work</p> <p>17 that you do in your position?</p> <p>18 A. I honestly wouldn't feel comfortable</p> <p>19 putting a percentage on it. It's something that</p> <p>20 could change literally day-to-day, hour-to-hour,</p> <p>21 and I don't really keep track in my own head.</p> <p>22 Q. In your role at the Union, do you have</p> <p>23 occasion to use or refer to the Labor Management</p> <p>24 Reporting and Disclosure Act of 1959?</p> <p>25 A. I am aware of it. I have likely read</p>
Page 14	Page 16
<p>1 A. Sure. I assist both our President and</p> <p>2 our Business Manager in any issue that may come</p> <p>3 up, small, large. I couldn't even really give you</p> <p>4 an example because it could be anything.</p> <p>5 I also assist in just a general</p> <p>6 role at the Union of having been there for a very</p> <p>7 long time, so I tend to know where things are,</p> <p>8 what things are, to a point.</p> <p>9 Q. Okay. Would you describe your role</p> <p>10 as -- as purely legal, or are you sometimes</p> <p>11 providing sort of other kinds of work and support?</p> <p>12 A. I would say that it's a mixed role.</p> <p>13 Q. And if it's a mixed role, could you</p> <p>14 sort of give me a percentage, roughly, as to how</p> <p>15 much you would sort of describe as purely legal</p> <p>16 and how much --</p> <p>17 MR. PODRAZA: Counsel, how</p> <p>18 far --</p> <p>19 BY MS. DeBRUICKER:</p> <p>20 Q. -- would be other?</p> <p>21 MR. PODRAZA: Excuse me. How</p> <p>22 far are we going to go down this road? I</p> <p>23 mean, we're here to talk about a nomination</p> <p>24 proceeding, not her relationship with the</p> <p>25 Union to the, you know, microscopic view.</p>	<p>1 it in its entirety once. However, I could not</p> <p>2 quote it.</p> <p>3 Q. Okay. I'm going to refer to it as the</p> <p>4 LMRDA. Okay?</p> <p>5 A. That's fine.</p> <p>6 Q. Okay. If that's a fair request.</p> <p>7 Would you say that the LMRDA is</p> <p>8 not something that you sort of typically refer to</p> <p>9 in your day-to-day work at the Union?</p> <p>10 A. It is not.</p> <p>11 Q. In your work at the Union, in your</p> <p>12 role as -- as counsel, have you provided legal</p> <p>13 advice to Local 98 relating to its June 2020</p> <p>14 officer election?</p> <p>15 A. No.</p> <p>16 Q. In your role at the Union, have you</p> <p>17 provided legal advice to Local 98 regarding the</p> <p>18 nominations process for the June 2020 election?</p> <p>19 A. No.</p> <p>20 Q. In your role at the Union, have you</p> <p>21 provided legal advice to Local 98 in connection</p> <p>22 with Charles Battle's protest of the June 2020</p> <p>23 election?</p> <p>24 A. No.</p> <p>25 Q. In your role at the Union, have you</p>

4 (Pages 13 to 16)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 17</p> <p>1 provided Local 98 legal advice relating to this</p> <p>2 lawsuit?</p> <p>3 A. No.</p> <p>4 Q. In your role at the Union, have you</p> <p>5 provided Local 98 legal advice regarding its</p> <p>6 compliance with the LMRDA?</p> <p>7 A. No.</p> <p>8 Q. As a part of your current job duties,</p> <p>9 do you attend Business Agent meetings?</p> <p>10 A. Yes.</p> <p>11 Q. And can you sort of describe in what</p> <p>12 capacity you attend those meetings.</p> <p>13 A. In my opinion, the term Business Agent</p> <p>14 is -- Business Agent meeting is a generalized term</p> <p>15 that we just use for a meeting of quite a few</p> <p>16 different groups or different employees that we</p> <p>17 have.</p> <p>18 Q. Can you tell me what a Business Agent</p> <p>19 is.</p> <p>20 A. A Business Agent is a representative</p> <p>21 of Local 98 that may likely have a territory where</p> <p>22 they would be in charge of a certain location in</p> <p>23 regarding to job sites in that location.</p> <p>24 Q. And how does someone become a Business</p> <p>25 Agent?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Are you aware of any sort of what --</p> <p>2 what makes the difference between whether he</p> <p>3 attends or not? Are there certain --</p> <p>4 A. No, I'm not aware of anything.</p> <p>5 Q. How often are Business Agent meetings</p> <p>6 held would you say?</p> <p>7 A. There is no set calendar. So it could</p> <p>8 be every day. It could be once a month.</p> <p>9 Q. So it's not like there's a standing</p> <p>10 meeting every first Tuesday of the month.</p> <p>11 A. No.</p> <p>12 Q. Who decides when to hold the Business</p> <p>13 Agent meeting?</p> <p>14 A. It could be a combination of people.</p> <p>15 It could be our President. It could be our</p> <p>16 Assistant Business Manager, our Business Manager.</p> <p>17 It all depends on the subject, I suppose.</p> <p>18 Q. Okay. And do you know how Business</p> <p>19 Agent meetings are announced, or how people learn</p> <p>20 that there's a meeting that they should come to?</p> <p>21 A. Usually an email is sent out,</p> <p>22 sometimes a phone call, sometimes a text message.</p> <p>23 Q. And is there a list of people who that</p> <p>24 kind of message would go out to?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 18</p> <p>1 A. That's not something I know.</p> <p>2 Q. So getting back to my question about</p> <p>3 Business Agent meetings, is there such a thing as</p> <p>4 a formal Business Agent meeting that Local 98</p> <p>5 convenes?</p> <p>6 A. In my opinion, I wouldn't say that I'm</p> <p>7 aware of a formal Business Agent meeting. I know</p> <p>8 I'm repeating myself, but we use that term just</p> <p>9 more generally to have a bunch of different type</p> <p>10 of people in the meeting.</p> <p>11 Q. Do I understand correctly that that</p> <p>12 would mean there would be more than just Business</p> <p>13 Agents?</p> <p>14 A. Yes.</p> <p>15 Q. Is that what you're meaning?</p> <p>16 And does the attendance vary</p> <p>17 depending on what the meeting is for?</p> <p>18 A. Sometimes, yes.</p> <p>19 Q. Does Mr. Dougherty attend Business</p> <p>20 Agent meetings in his capacity as Business</p> <p>21 Manager?</p> <p>22 A. Sometimes, yes.</p> <p>23 Q. Not always?</p> <p>24 A. I -- I couldn't give you a percentage</p> <p>25 or anything along those lines.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. And what general types of things are</p> <p>2 discussed at Business Agent meetings?</p> <p>3 A. It could be job issues or just jobs</p> <p>4 going on in the City or in any of our territories.</p> <p>5 It could be really anything. I really couldn't</p> <p>6 put a specific certain bullet point list together.</p> <p>7 Q. Would you say that you attend most</p> <p>8 Business Agent meetings?</p> <p>9 A. Yes.</p> <p>10 Q. Do you attend all Business Agent</p> <p>11 meetings?</p> <p>12 A. I -- I wouldn't say all.</p> <p>13 Q. Would there be a particular reason why</p> <p>14 you wouldn't attend a Business Agent meeting?</p> <p>15 A. Nothing in particular except just</p> <p>16 personal circumstances.</p> <p>17 Q. Availability?</p> <p>18 So I'm going to take us to June</p> <p>19 of 2020, and I understand that there was a</p> <p>20 nominations meeting held on June 9th of 2020.</p> <p>21 Does that jive with your recollection?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So that's sort of our time</p> <p>24 frame that we're looking at. Was there a Business</p> <p>25 Agent meeting on June 8th, 2020?</p>

5 (Pages 17 to 20)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 21	Page 23
<p>1 A. Yes.</p> <p>2 Q. Did you attend that meeting?</p> <p>3 A. Yes.</p> <p>4 Q. What was the subject of that meeting?</p> <p>5 A. In all honesty, I was there. I don't</p> <p>6 necessarily recall most of it. I had just</p> <p>7 received shoulder surgery, and in all honesty,</p> <p>8 I -- I was there but I wasn't necessarily</p> <p>9 interacting.</p> <p>10 Q. Do you recall having a speaking role</p> <p>11 at the June 8th meeting?</p> <p>12 A. No.</p> <p>13 Q. Was the June 9th officer nominations</p> <p>14 meeting discussed at that Business Agent meeting?</p> <p>15 A. I believe so.</p> <p>16 Q. Do you recall what was discussed?</p> <p>17 A. No.</p> <p>18 Q. Was there any discussion of the</p> <p>19 Business Agent's role in the election?</p> <p>20 A. Not that I recall of.</p> <p>21 Q. Was there discussion about not holding</p> <p>22 an election?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Or not wanting to hold an election.</p> <p>25 A. Not that I recall.</p>	<p>1 A. Not that I can recall.</p> <p>2 Q. Do you recall of Charles Battle not</p> <p>3 being discussed at that meeting?</p> <p>4 A. I don't recall, either.</p> <p>5 Q. So you couldn't say either way.</p> <p>6 A. Either way, no.</p> <p>7 Q. Was Timothy McConnell discussed at</p> <p>8 that meeting?</p> <p>9 A. Not that I can recall.</p> <p>10 Q. Was Timothy McConnell not discussed at</p> <p>11 that meeting?</p> <p>12 A. Not that I could recall.</p> <p>13 Q. You couldn't say either way.</p> <p>14 A. No, I couldn't.</p> <p>15 Q. Was Michael Coppinger discussed at</p> <p>16 that meeting?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Was Michael Coppinger not discussed at</p> <p>19 that meeting?</p> <p>20 A. Not that I recall.</p> <p>21 Q. You couldn't say either way.</p> <p>22 A. I could not.</p> <p>23 Q. So that was the June 8th meeting.</p> <p>24 Do you recall other Business Agent meetings</p> <p>25 leading up to the June 2020 election where the</p>
Page 22	Page 24
<p>1 Q. Would you recall if there was such a</p> <p>2 discussion?</p> <p>3 A. I honestly don't know the answer. I</p> <p>4 mean, I think I would, but I -- I'm -- I'm not</p> <p>5 positive.</p> <p>6 Q. Okay. I'm trying to get a sense as to</p> <p>7 sort of your recollection of the meeting and</p> <p>8 whether you would be able to say either way</p> <p>9 whether something was discussed or not.</p> <p>10 A. Sure. My recollection of June 8th</p> <p>11 meeting is honestly that it was extremely warm</p> <p>12 out, and that I was in an immobilizer sling and</p> <p>13 hot. I'm -- that's what it was.</p> <p>14 Q. Where was that meeting held?</p> <p>15 A. It was held in -- at our parking lot</p> <p>16 in 1719 Spring Garden Street.</p> <p>17 Q. So it was outdoors?</p> <p>18 A. Yes.</p> <p>19 Q. Why was it outdoors?</p> <p>20 A. Due to COVID at the time.</p> <p>21 Q. Were any potential nominees discussed</p> <p>22 at that meeting?</p> <p>23 A. Not that I can recall.</p> <p>24 Q. Was Charles Battle discussed at that</p> <p>25 meeting?</p>	<p>1 election was discussed?</p> <p>2 A. I don't recall, and I -- I honestly</p> <p>3 don't recall if I was present in the -- the few</p> <p>4 weeks prior to the election due to the shoulder</p> <p>5 surgery.</p> <p>6 Q. Do you recall what your last Business</p> <p>7 Agent meeting would have been prior to that?</p> <p>8 A. No.</p> <p>9 Q. In the time since then, have you heard</p> <p>10 any discussions as to what was discussed at the</p> <p>11 June 8th Business Agent meeting?</p> <p>12 A. No.</p> <p>13 Q. Have you ever run for Local 98 office?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. I have no desire to.</p> <p>17 Q. Why not?</p> <p>18 A. I like my job.</p> <p>19 Q. Did you have a role in the 2020 -- let</p> <p>20 me say that again. Did you have a role in the</p> <p>21 2020 officers election?</p> <p>22 A. I did.</p> <p>23 Q. How would you describe your role?</p> <p>24 A. I nominated John Dougherty for his</p> <p>25 position.</p>

6 (Pages 21 to 24)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 25	Page 27
<p>1 Q. And did you have any role in the</p> <p>2 election process, itself?</p> <p>3 A. Strictly clerical.</p> <p>4 Q. Okay.</p> <p>5 A. I potentially had printed documents</p> <p>6 out, maybe made copies, small things along those</p> <p>7 lines.</p> <p>8 Q. You say "potentially" and "maybe." Do</p> <p>9 you recall specifically doing those things?</p> <p>10 A. I don't recall specifically doing</p> <p>11 those things. However, there is a high chance</p> <p>12 that I could have.</p> <p>13 Q. And what makes you say that?</p> <p>14 A. Based on our office being small and</p> <p>15 not -- there not being that many people there to</p> <p>16 make copies.</p> <p>17 Q. Is that the kind of thing that you --</p> <p>18 that you would have done in your role for other</p> <p>19 circumstances?</p> <p>20 A. No.</p> <p>21 Q. Had you had a -- any role in any prior</p> <p>22 elections?</p> <p>23 A. Possibly the same type of very small</p> <p>24 clerical role, just helping someone out.</p> <p>25 Q. So staying on, you know, June 9th,</p>	<p>1 office, and I went down to service the member.</p> <p>2 Q. It's my understanding that 1719 is the</p> <p>3 Union Hall; is that correct?</p> <p>4 A. Yes. We use them both</p> <p>5 interchangeably. So the physical meeting room is</p> <p>6 located at 1719. My office is located at 1701.</p> <p>7 We use the term -- terminology Business Office.</p> <p>8 Q. Okay. So you were at the Business</p> <p>9 Office when that call came in.</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall who made that -- who</p> <p>12 called?</p> <p>13 A. No.</p> <p>14 Q. Did you answer that call?</p> <p>15 A. I don't recall.</p> <p>16 Q. Did the person who called said who the</p> <p>17 member was?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you recall being on the phone</p> <p>20 during that call?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you know who would have taken that</p> <p>23 call if not for you?</p> <p>24 A. I don't know who would have taken the</p> <p>25 call.</p>
Page 26	Page 28
<p>1 2020, which I understand was the -- the</p> <p>2 nominations meeting, do you recall what time the</p> <p>3 nomination meeting started?</p> <p>4 A. 7 p.m., or shortly after.</p> <p>5 Q. On that night, did you go to the Union</p> <p>6 Hall prior to the meeting?</p> <p>7 A. Yes.</p> <p>8 Q. Around what time would you have gone?</p> <p>9 A. It was before 5 p.m. Sometime</p> <p>10 between, say, 4:30, 4:45, potentially.</p> <p>11 Q. So before 5 p.m.</p> <p>12 A. In between 4:30, 4:45 I -- I would</p> <p>13 think.</p> <p>14 Q. So pretty close to 5 p.m.</p> <p>15 A. Yeah.</p> <p>16 Q. And why did you go to the Union Hall</p> <p>17 at that time?</p> <p>18 A. Our office received a phone call that</p> <p>19 there was a member at the 1719 location seeking to</p> <p>20 fill out the nomination form to run for office.</p> <p>21 There were scheduled to have other Local 98</p> <p>22 members man a desk for members that wanted to come</p> <p>23 and seek nomination.</p> <p>24 They were running late, I</p> <p>25 think, due to traffic. So the office called my</p>	<p>1 Q. Do you know who else was in the 1701</p> <p>2 location who could have taken that call?</p> <p>3 A. It could have possibly been the person</p> <p>4 that answers the phones at the front desk.</p> <p>5 Q. You mentioned some people were running</p> <p>6 late. Tell me about what they were supposed to do</p> <p>7 that night.</p> <p>8 A. I don't know exactly what their job</p> <p>9 was. I do know that part of it was that they were</p> <p>10 going to be at a table that we had set up in the</p> <p>11 Union Hall first floor so if a member wanted to</p> <p>12 come in and seek nomination, they would be able to</p> <p>13 assist them with the paperwork.</p> <p>14 Q. And do you know that the tables were,</p> <p>15 in fact, set up for that purpose?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know when those tables were set</p> <p>18 up?</p> <p>19 A. No.</p> <p>20 Q. Do you know who the table workers were</p> <p>21 supposed to be?</p> <p>22 A. I only know of one, Rodney Walker, and</p> <p>23 I don't know who was supposed to be with him.</p> <p>24 Q. Was that something that was arranged</p> <p>25 ahead of time?</p>

7 (Pages 25 to 28)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 29</p> <p>1 A. I knew it that day, so it was arranged</p> <p>2 before I went down there at 4:30, 4:45.</p> <p>3 Q. When were table workers supposed to be</p> <p>4 there?</p> <p>5 A. I don't know.</p> <p>6 Q. Would there be record of that</p> <p>7 somewhere?</p> <p>8 A. I don't believe so.</p> <p>9 Q. And it's my understanding that forms</p> <p>10 were due by 5 p.m.; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know who the member was who was</p> <p>13 inquiring --</p> <p>14 A. Yes.</p> <p>15 Q. -- about a form?</p> <p>16 Who was it?</p> <p>17 A. Charles Battle.</p> <p>18 Q. Had you met Charles Battle before?</p> <p>19 A. Not face-to-face, to the best of my</p> <p>20 recollection.</p> <p>21 Q. Had you known who he was prior to that</p> <p>22 time?</p> <p>23 A. Yes.</p> <p>24 Q. What was -- tell me the -- how you</p> <p>25 knew him and what that knowledge was.</p>	<p style="text-align: right;">Page 31</p> <p>1 Did you take anything with you</p> <p>2 to the meeting hall?</p> <p>3 A. Yeah.</p> <p>4 Q. What did you take?</p> <p>5 A. I believe it was a manila folder with</p> <p>6 blank and filled out nomination forms in them. In</p> <p>7 it. Excuse me.</p> <p>8 Q. Did you look in the folder to see what</p> <p>9 was in it?</p> <p>10 A. Likely not until Mr. Battle had asked</p> <p>11 for a form and I opened it.</p> <p>12 Q. And where did you get the folder from?</p> <p>13 A. From the President, Brian Burrows.</p> <p>14 Q. Am I correct in understanding that</p> <p>15 there were both blank forms and completed forms in</p> <p>16 that folder?</p> <p>17 A. To the best of my knowledge, yes.</p> <p>18 Q. Did you know who the completed forms</p> <p>19 belonged to?</p> <p>20 A. No.</p> <p>21 Q. At any time did you go through and</p> <p>22 look to see whose forms had been included?</p> <p>23 A. No.</p> <p>24 Q. Do you know where the completed forms</p> <p>25 had come from?</p>
<p style="text-align: right;">Page 30</p> <p>1 A. He had attended a meeting that I had</p> <p>2 been at as well, and was vocal and slightly</p> <p>3 outspoken with his vocalness, so it made me</p> <p>4 remember him and his face.</p> <p>5 Q. So at the time that you went from your</p> <p>6 office to the Union Hall, did you know at the time</p> <p>7 who the member was?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Did you have any discussions with</p> <p>10 anyone at the office before going to the Union</p> <p>11 Hall?</p> <p>12 A. I believe that I received the phone</p> <p>13 call and/or was told by someone that there was a</p> <p>14 member down there that needed to be assisted. I</p> <p>15 went to our President's office, which is across</p> <p>16 the hall from my office, and said there's a member</p> <p>17 down there, they need assistance, would you like</p> <p>18 me to just go handle it, and he had said please.</p> <p>19 Q. Do you recall any discussions about</p> <p>20 who that member might be at the time?</p> <p>21 A. No.</p> <p>22 Q. Do you recall any other instructions</p> <p>23 or guidance that --</p> <p>24 A. No.</p> <p>25 Q. -- you may have gotten?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Just Brian's office.</p> <p>2 THE REPORTER: Just?</p> <p>3 THE WITNESS: Oh, I'm sorry.</p> <p>4 Just Brian, Brian's office.</p> <p>5 BY MS. DeBRUICKER:</p> <p>6 Q. Do you have any information as to when</p> <p>7 they were submitted?</p> <p>8 A. No.</p> <p>9 Q. Or who put them in the folder?</p> <p>10 A. No.</p> <p>11 Q. Or when?</p> <p>12 A. No.</p> <p>13 Q. Do you know whether they were put in</p> <p>14 the folder that day or sometime before?</p> <p>15 A. I don't know.</p> <p>16 Q. So it's my understanding you have the</p> <p>17 folder, you go to the Union Hall. What happens</p> <p>18 next?</p> <p>19 A. I walked in. I believe that</p> <p>20 Mr. Battle was standing there. I'm not sure if I</p> <p>21 approached him or if he approached me, and I said,</p> <p>22 you know, I have the form, here you go. I handed</p> <p>23 him a pen.</p> <p>24 Go on?</p> <p>25 Q. Yes.</p>

8 (Pages 29 to 32)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 33</p> <p>1 A. Okay. So I handed him a pen. 2 Mr. Battle was very cordial to me. He was kind. 3 He actually asked about my injury. We had a 4 little bit of a talk about that. There are three 5 things that I kind of remember, but I don't 6 remember what time frame they happened in, meaning 7 I don't know what came first. 8 At one point, Mr. Battle asked 9 if that folder contained forms that were 10 completed, and I said yes. He asked if he could 11 see them, and I said, I don't know, I would have 12 to make a call. So I had stepped away from the 13 table and went into another room, where I called 14 the President and asked if I could show him the 15 forms, and he said no, that no member can see 16 those forms. So I told Mr. Battle, you know, no. 17 At some point, Mr. Battle did 18 step away from the table, or the generalized area 19 where I was, and I believe he went into our 20 atrium. It's -- it's -- atrium's probably too 21 strong of a word, but just in a doorway, and 22 seemed to be on his cell phone. 23 At another point, he also took 24 the form from the table and went to a second table 25 that was a couple feet to my right, and was, I</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Not that I know of. 2 Q. So if I understand, your forms may 3 have been available at 1701, correct? 4 A. Our buildings are interchanged, and 5 our 1719 office does not -- it consists of our 6 financial office, our apprentice training, and a 7 third-party fund administrator. So this would not 8 be something in their purview. 9 So I don't -- to my knowledge, 10 there was no forms there, but that does not 11 surprise me in any means. 12 Q. Okay. Why is that? 13 A. Because it wouldn't have been their 14 purview, and they wouldn't have had anything to do 15 with that. 16 Q. Do you know where the Union members 17 were told where to find forms in advance of the 18 5:00 deadline? 19 A. I mean, a letter was mailed out to 20 every member. I don't remember the exact content. 21 Once again, if the letter said to arrive at 1719, 22 to us, they're interchangeable, so a member 23 simply -- somebody would have just simply called 24 the other office and a form would have been 25 brought down to them.</p>
<p style="text-align: right;">Page 34</p> <p>1 believe, on his phone again and -- and writing on 2 the form. 3 Q. All right. I'm going to go back a 4 little bit to kind of fill in -- 5 A. Sure. 6 Q. -- some of my questions. 7 Why did you take blank forms to 8 the Union Hall that night? 9 A. I believe that the phone call we 10 received stated that a member wanted to nominate 11 himself or be nominated, so that form would have 12 been part of the process. 13 Q. Okay. Was it your understanding that 14 there weren't any forms at the Union Hall before 15 you brought them? 16 A. I -- I don't know if I agree with that 17 statement because there were forms -- I believe 18 there would have been forms at 1701 since I 19 received them at that 4:30 time. Just because 20 they weren't at 1719 Spring Garden Street, in my 21 opinion, that doesn't mean that they weren't 22 there. 23 Q. Did you -- did you have any knowledge 24 of forms being at 1719 Spring Garden Street before 25 you brought them there?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Why did you take completed forms with 2 you when you went to 1719? 3 A. That was just the folder I was handed. 4 Q. And I understand you gave Mr. Battle a 5 blank nomination form. 6 A. Yes. 7 Q. Did you give him any instructions 8 about the form? 9 A. No. 10 Q. Did you tell him what portions he 11 needed to fill out? 12 A. I don't believe I did. 13 Q. Do you recall specifically whether you 14 did or not? 15 A. I don't recall specifically. 16 Q. Did you provide a nomination form to 17 anyone else that night? 18 A. No. 19 Q. Did you provide a nomination form to 20 anyone else at any other time? 21 A. Not that I can recall. 22 Q. And you mentioned that Mr. Battle 23 asked if he could see the completed forms; is that 24 right? 25 A. Yes.</p>

9 (Pages 33 to 36)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 37	Page 39
<p>1 Q. Did he tell you why he wanted to see 2 the completed forms? 3 A. He did not. 4 Q. Do you recall him indicating he wanted 5 to see if anyone else was running who he might not 6 want to run against? 7 A. I don't recall. 8 Q. Do you have a specific recollection of 9 him not saying that? 10 A. I don't have a specific recollection. 11 Q. All right. So you couldn't say either 12 way. 13 A. Either way, no. 14 Q. You mentioned when Mr. Battle asked if 15 he could see the forms you -- you didn't know the 16 answer; is that correct? 17 A. Yes. 18 Q. And so you called Mr. Burrows; is that 19 right? 20 A. Yes. 21 Q. Why did you call Mr. Burrows? 22 A. He's the President of the Union, and I 23 also work directly and closely with him. 24 Q. And did you consider him the 25 appropriate person who would know the answer to</p>	<p>1 Q. But just so I'm clear, you wouldn't -- 2 are -- are you not sure that that was because -- 3 that he did those things because he was President, 4 or he did those things because -- 5 A. He was a -- so I -- I, personally, 6 don't know if that was a job assigned to him by 7 like the IBEW Constitution, or if that was just 8 him as an employee of the Union. 9 Q. Okay. Thank you. 10 When you spoke to Mr. Burrows, 11 did you tell him that it was Mr. Battle who was 12 asking the question? 13 A. I don't recall. 14 Q. Did Mr. Burrows tell you why 15 Mr. Battle was not allowed to see the completed 16 forms? 17 A. No. 18 Q. Do you have any understanding on your 19 own as to why he was not allowed to see the 20 completed forms? 21 A. No. 22 Q. Did you understand why somebody who 23 was considering running might want to see the 24 completed forms? 25 MR. PODRAZA: Objection. Calls</p>
Page 38	Page 40
<p>1 those things? 2 A. Yes. 3 Q. Was there anyone else at the Union who 4 would have known the answer to those things? 5 A. Possibly. 6 Q. Who might that be? 7 A. Possibly the Business Manager, John 8 Dougherty. 9 Q. In his role as President, did Mr. -- 10 was Mr. Burrows sort of in charge of overseeing 11 the election? 12 A. I don't know if that was his role as 13 President, or if he just was tasked with it. 14 Q. Was it your understanding that he was 15 overseeing the election? 16 A. I'm -- I wouldn't say overseeing, but 17 he had an active role in planning it. 18 Q. Okay. Do you know what -- what he did 19 in planning the election? 20 A. I'm sorry, could you repeat that? 21 Q. What was his role in planning the 22 election? 23 A. Logistics of physically having a date 24 picked, membership mailings sent out, setup of the 25 actual Union Hall, and things along those lines.</p>	<p>1 for speculation. Move to strike. 2 You can answer. 3 THE WITNESS: I, personally, 4 don't have an opinion on that. 5 BY MS. DeBRUICKER: 6 Q. You could understand someone not 7 wanting to run against a friend who they might 8 support -- 9 MR. PODRAZA: Objection. 10 MS. DeBRUICKER: -- right? Is 11 that -- 12 MR. PODRAZA: Calls for 13 conjecture and speculation. Move to strike. 14 THE WITNESS: I have no opinion 15 on that. 16 MS. DeBRUICKER: Counsel, we've 17 agreed to reserve all objections except to 18 form for trial, so -- 19 MR. PODRAZA: Ma'am, I'll 20 protect my record the way -- the best way, 21 too. So please proceed. 22 BY MS. DeBRUICKER: 23 Q. So I understand you gave Mr. Battle a 24 form. Did you give him a pen, did you say? 25 A. I believe so.</p>

10 (Pages 37 to 40)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 41	Page 43
<p>1 Q. Okay. Were there others present</p> <p>2 around those tables at the time?</p> <p>3 A. Yes.</p> <p>4 Q. Who was there?</p> <p>5 A. No one that I can name specifically.</p> <p>6 Members were being serviced at both the</p> <p>7 third-party fund administrator's side and the</p> <p>8 financial office side.</p> <p>9 Q. Would those have been election-related</p> <p>10 activities?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Do you recall whether people were</p> <p>13 coming in and out or standing around?</p> <p>14 A. I believe the people were coming in</p> <p>15 and out, not standing around.</p> <p>16 Q. At some point did Mr. Battle give his</p> <p>17 form back to you?</p> <p>18 A. Yes.</p> <p>19 Q. And he had written on it at that time?</p> <p>20 A. Yes.</p> <p>21 Q. Did you review the form at the time he</p> <p>22 gave it to you?</p> <p>23 A. Mr. Battle had said to me that his</p> <p>24 nominator was not there, and I believe I said</p> <p>25 something along the lines, You don't have to worry</p>	<p>1 MS. DeBRUICKER: I'm going to</p> <p>2 have this marked as Exhibit Chupka-1.</p> <p>3 ---</p> <p>4 (Nomination Slip for Candidates</p> <p>5 for Office, Bates stamped DOL_LOCAL</p> <p>6 98_00298, marked Plaintiff's Exhibit</p> <p>7 Chupka-1 for identification purposes.)</p> <p>8 ---</p> <p>9 MR. PODRAZA: Thank you.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 BY MS. DeBRUICKER:</p> <p>12 Q. Ms. Chupka, I'll give you a moment to</p> <p>13 look at that, and then I'll ask you a couple</p> <p>14 questions.</p> <p>15 A. I'm ready when you are.</p> <p>16 Q. Okay. Would you recognize this as the</p> <p>17 form that Mr. Battle gave to you?</p> <p>18 A. Yes.</p> <p>19 Q. And did you consider this form to be</p> <p>20 complete at the time he gave it to you?</p> <p>21 A. I didn't consider anything.</p> <p>22 Q. And if I understand your testimony,</p> <p>23 you understood that he didn't need a nominator,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
Page 42	Page 44
<p>1 about that, you're here. You were here by 5:00.</p> <p>2 Your section is filled out. Your -- your form --</p> <p>3 you know, section, excuse me, is filled out.</p> <p>4 Q. When you said, "You don't have to</p> <p>5 worry about that," what did you mean?</p> <p>6 A. In my mind, I meant that the letter</p> <p>7 that was mailed out to the members asked for them</p> <p>8 to be there by 5:00 if they wanted to be</p> <p>9 nominated, and so therefore, he was there by 5.</p> <p>10 Q. Did you have an understanding as to</p> <p>11 whether Mr. Battle needed a nominator?</p> <p>12 A. No.</p> <p>13 Q. Did Mr. Battle need a nominator?</p> <p>14 A. No, he did not.</p> <p>15 Q. Did you tell him that?</p> <p>16 A. No. We didn't speak of if he needed</p> <p>17 someone or not.</p> <p>18 Q. Okay. But you recall him saying he</p> <p>19 didn't have his -- his nominator wasn't there at</p> <p>20 the time?</p> <p>21 A. Yes.</p> <p>22 Q. And you didn't tell him you don't need</p> <p>23 a nominator.</p> <p>24 A. I don't believe I said anything. I</p> <p>25 just said you were here by 5:00.</p>	<p>1 Q. So if he didn't need a nominator, in</p> <p>2 your mind, is there anything else that he would</p> <p>3 have needed to fill out on this form to be</p> <p>4 nominated?</p> <p>5 A. To be nominated, no.</p> <p>6 Q. Unrelated to this form, was there</p> <p>7 anything else he needed to do to be nominated that</p> <p>8 night?</p> <p>9 A. Not that I'm aware of.</p> <p>10 Q. From your interactions with</p> <p>11 Mr. Battle, was it your understanding that he</p> <p>12 thought there were other things he needed to do in</p> <p>13 order to be nominated?</p> <p>14 A. No.</p> <p>15 Q. Did Mr. Battle -- when he submitted</p> <p>16 your form -- his form to you, did Mr. Battle ask</p> <p>17 you any other questions?</p> <p>18 A. No.</p> <p>19 Q. Did you have any further conversation</p> <p>20 with Mr. Battle at that time?</p> <p>21 A. No.</p> <p>22 Q. So Mr. Battle gave you his form. What</p> <p>23 did you do with it then?</p> <p>24 A. I put it in the folder.</p> <p>25 Q. Why?</p>

11 (Pages 41 to 44)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 45	Page 47
<p>1 A. Just I -- I felt it should go with the</p> <p>2 other forms.</p> <p>3 Q. At some point, did you do something</p> <p>4 with the folder?</p> <p>5 A. Yes. When Rodney Walker arrived, I</p> <p>6 gave him the folder, and I went back to my own</p> <p>7 office at 1701.</p> <p>8 Q. And about what time was that would you</p> <p>9 say?</p> <p>10 A. I don't recall.</p> <p>11 Q. Who is Mr. Walker?</p> <p>12 A. He is an employee of Local 98.</p> <p>13 Q. Does he have a title at Local 98?</p> <p>14 A. I believe he does, but I honestly</p> <p>15 don't remember what it is.</p> <p>16 Q. I've heard reference to the term</p> <p>17 Sergeant at Arms. Does that mean anything to you?</p> <p>18 A. That sounds familiar to what</p> <p>19 Mr. Walker's title would be.</p> <p>20 Q. Okay. And do you know what a Sergeant</p> <p>21 at Arms is?</p> <p>22 A. I wouldn't want to speculate.</p> <p>23 Q. Is Mr. Walker also a Business Agent?</p> <p>24 A. Yes.</p> <p>25 Q. If I wanted to learn what the duties</p>	<p>1 of how many people were allowed in a certain</p> <p>2 square foot. So there were only so many chairs</p> <p>3 that could be set up in the basement, our Union</p> <p>4 meeting hall, and if there was going to be an</p> <p>5 over-amount of people running for Business</p> <p>6 Manager, then the nomination meeting would have to</p> <p>7 be split up by office or however else they had</p> <p>8 decided to.</p> <p>9 Q. So other than for head-count purposes,</p> <p>10 were there any other purposes of the forms?</p> <p>11 THE REPORTER: Were there any</p> <p>12 other purposes?</p> <p>13 MS. DeBRUICKER: For the forms.</p> <p>14 THE REPORTER: Thanks.</p> <p>15 THE WITNESS: Not that I am</p> <p>16 aware of.</p> <p>17 BY MS. DeBRUICKER:</p> <p>18 Q. Did you have an understanding as to</p> <p>19 whether there were any differences between</p> <p>20 Mr. Battle's form and the other completed forms in</p> <p>21 the folder?</p> <p>22 A. Nothing that I was aware of.</p> <p>23 Q. And any differences in what would</p> <p>24 happen to them next, once you turned the folder</p> <p>25 over to Mr. Walker?</p>
Page 46	Page 48
<p>1 are of a Sergeant at Arms, who should I ask?</p> <p>2 A. I believe we -- you could look at the</p> <p>3 IBEW Constitution.</p> <p>4 Q. Did Mr. Walker have a role in the</p> <p>5 election?</p> <p>6 A. I don't recall.</p> <p>7 Q. Why did you give the folder to</p> <p>8 Mr. Walker, as opposed to someone else?</p> <p>9 A. From what I had understood, he was</p> <p>10 going to man that desk orig -- or that table</p> <p>11 originally, and he was the person that was running</p> <p>12 late.</p> <p>13 Q. Do you recall when Mr. Walker arrived?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you recall whether Mr. Battle was</p> <p>16 still there when Mr. Walker arrived?</p> <p>17 A. I don't recall.</p> <p>18 Q. When you put the form in the folder</p> <p>19 and gave the folder to Mr. Walker, what was your</p> <p>20 understanding as to what was going to happen next</p> <p>21 with Mr. Battle's form?</p> <p>22 A. My understanding was that the forms</p> <p>23 were necessary for a head count due to COVID</p> <p>24 protocols. I believe at that time the City of</p> <p>25 Philadelphia had like a square footage requirement</p>	<p>1 A. No.</p> <p>2 Q. Did you tell Mr. Walker that the</p> <p>3 folder included Mr. Battle's form?</p> <p>4 A. Yes.</p> <p>5 Q. Why?</p> <p>6 A. Because I wanted to make sure that</p> <p>7 Mr. Walker knew that Mr. Battle was there by 5:00.</p> <p>8 Q. Did you mention the names of any other</p> <p>9 candidates to Mr. Walker?</p> <p>10 A. No.</p> <p>11 Q. Did you review any other forms in the</p> <p>12 folder and compare them to Mr. Battle's?</p> <p>13 A. No.</p> <p>14 Q. Did you say anything else to</p> <p>15 Mr. Walker about the file folder when you gave it</p> <p>16 to him?</p> <p>17 A. Not that I can recall.</p> <p>18 Q. And what was your understanding of</p> <p>19 what Mr. Walker was going to do with the file</p> <p>20 folder?</p> <p>21 A. I assumed he was going to count out</p> <p>22 how many people were running for each office so</p> <p>23 then they could figure out what they had to do at</p> <p>24 the actual nomination meeting.</p> <p>25 Q. So it was your understanding that</p>

12 (Pages 45 to 48)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 49	Page 51
<p>1 Mr. Walker would -- would look at the completed 2 nomination forms? 3 MR. PODRAZA: I object. All 4 she said is she had an assumption. She 5 didn't say she knew anything. 6 THE WITNESS: And I only 7 assumed that's what he did. I did not know 8 for sure. 9 BY MS. DeBRUICKER: 10 Q. Was it your understanding that that 11 was what would happen? 12 MR. PODRAZA: Objection. Asked 13 and answered. 14 THE WITNESS: Answer, though, 15 correct? 16 MR. PODRAZA: You can, yes. 17 THE WITNESS: I -- I don't -- I 18 don't know if I would use the word 19 "understanding." I am using what I would 20 consider my brain to say that someone had to 21 count. 22 BY MS. DeBRUICKER: 23 Q. Was it your understanding that 24 Mr. Walker was permitted -- permitted to look at 25 the completed nomination forms?</p>	<p>1 forms to someone else? 2 A. Yes. 3 Q. And who would that be? 4 A. I believe that he would have given 5 them to Brian Burrows, the President, who was the 6 Chairperson of all the nomination meetings. 7 Q. And what would be the purpose of 8 Mr. Walker providing the forms to Mr. Burrows? 9 A. To either do the counting out, or -- 10 I -- I don't remember exactly the meeting 11 minutes -- or I shouldn't say the minutes, excuse 12 me, the meeting schedule of events. So possibly 13 to call someone's name out, if necessary. 14 Q. Did you attend the nomination meeting? 15 A. Yes. 16 Q. Was there -- do you recall whether 17 there being a head-count issue for those who 18 attended the nomination meeting? 19 A. No. 20 Q. Did you see the completed forms at the 21 nomination meeting? 22 A. No. 23 Q. Do you know who had -- do you know 24 whether the forms were present during the 25 nomination meeting?</p>
Page 50	Page 52
<p>1 A. In my -- in my non-Local 98 role, I 2 would think that he would be able to. I do not 3 know IBEW Constitution-wise or anything along 4 those lines. 5 Q. Whether there was -- did you have any 6 understanding as to whether there were rules about 7 who could see the nomination forms or not? 8 A. I don't know the rules. 9 Q. Did you have an understanding as to 10 whether Mr. Walker would show the completed forms 11 to other incumbent officers? 12 A. Not that I'm aware of. 13 Q. Would there be a reason for Mr. Walker 14 to show the nomination forms to other incumbent 15 officers? 16 MR. PODRAZA: Objection. Calls 17 for speculation and conjecture. Move to 18 strike. 19 But you can answer it. 20 THE WITNESS: In my personal 21 opinion, possibly someone else did the 22 counting. 23 BY MS. DeBRUICKER: 24 Q. Was it your understanding that 25 Mr. Walker would eventually give the completed</p>	<p>1 A. I don't know. 2 Q. Do you recall the nomination forms 3 being used for any purpose during the meeting? 4 A. I don't recall. 5 Q. Do you recall anyone reading the forms 6 aloud during the meeting? 7 A. No. 8 Q. At some point during the meeting, were 9 nominees announced? 10 A. Yes. 11 Q. Do you recall how that was 12 communicated? 13 A. The Chair of the meeting I believe 14 said something along the lines the first office 15 we're going to nominate is Business Manager, are 16 there any nominees -- not -- are there -- is there 17 anybody who would like to be nominated, something 18 along those lines. 19 Q. Okay. And the Chair of the meeting 20 was who? 21 A. President Brian Burrows. 22 Q. And do you recall the forms being used 23 for that purpose at all? 24 A. Not that I can recall. 25 Q. Okay. So the question was is anyone</p>

13 (Pages 49 to 52)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 53</p> <p>1 here going to nominate someone for?</p> <p>2 A. I wouldn't say it like that. It would</p> <p>3 be more so just is there anybody here that wishes</p> <p>4 to be nominated.</p> <p>5 Q. And did anyone identify themselves?</p> <p>6 A. Yes.</p> <p>7 Q. Who did?</p> <p>8 A. For what office? I apologize.</p> <p>9 Q. Oh. Did anyone identify themselves</p> <p>10 for nomination for any office during the meeting?</p> <p>11 A. Yes.</p> <p>12 Q. And do you recall what offices people</p> <p>13 identified themselves to run for?</p> <p>14 A. Sure.</p> <p>15 This may -- I may be missing a</p> <p>16 few, but Business Manager, President,</p> <p>17 Vice President, Recording Secretary, Treasurer,</p> <p>18 Executive Board, which consists of multiple</p> <p>19 members, Examining Board, which consists of</p> <p>20 multiple members, and there could be possibly one</p> <p>21 or two others that I'm just...</p> <p>22 Q. Was Mr. Battle at that meeting?</p> <p>23 A. Could you clarify what you mean by --</p> <p>24 Q. Was Mr. Battle at the nominations</p> <p>25 meeting? Did you --</p>	<p style="text-align: right;">Page 55</p> <p>1 A. No.</p> <p>2 Q. Was there any discussion as to whether</p> <p>3 there were other nominees not present at the</p> <p>4 meeting?</p> <p>5 A. Not with me.</p> <p>6 Q. Do you recall any discussion of that</p> <p>7 during the meeting?</p> <p>8 A. No.</p> <p>9 Q. If I recall correctly, you said that</p> <p>10 you were going to nominate Mr. Dougherty for</p> <p>11 Business Manager.</p> <p>12 A. Yes.</p> <p>13 Q. And did you do that?</p> <p>14 A. Yes.</p> <p>15 Q. Did you -- how did you do that?</p> <p>16 A. When the Chairman said along the lines</p> <p>17 does anybody want to be nominated, I don't</p> <p>18 remember the exact words, for the office of</p> <p>19 Business Manager, I stood up and said, I would</p> <p>20 like to nominate John J. Dougherty.</p> <p>21 Q. And you had submitted a form</p> <p>22 nominating Mr. Dougherty, hadn't you?</p> <p>23 A. I filled out this form as a nominee,</p> <p>24 yes.</p> <p>25 Q. And when did you do that in relation</p>
<p style="text-align: right;">Page 54</p> <p>1 A. In the physical room?</p> <p>2 Q. Yes.</p> <p>3 A. He was not.</p> <p>4 Q. Did anyone mention Mr. Battle's name</p> <p>5 during that meeting?</p> <p>6 A. No.</p> <p>7 Q. Did anyone say Mr. Battle has</p> <p>8 submitted a nomination form during the meeting?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Was it your understanding that</p> <p>11 nominations had to be made at that meeting in</p> <p>12 person?</p> <p>13 A. In all honesty, I do not know the</p> <p>14 rules and regulations in regards to the election,</p> <p>15 so I don't know.</p> <p>16 Q. Do you recall any discussion of people</p> <p>17 not having to attend the meeting for COVID</p> <p>18 reasons?</p> <p>19 A. No.</p> <p>20 Q. Do you recall anyone saying, Look, if</p> <p>21 you submitted a form, you don't have to come into</p> <p>22 the building?</p> <p>23 A. No.</p> <p>24 Q. Do you recall there being more than</p> <p>25 one nominee for any position during that meeting?</p>	<p style="text-align: right;">Page 56</p> <p>1 to the 7:00 nominations meeting?</p> <p>2 A. Sometime during my workday.</p> <p>3 Q. Prior to the meeting?</p> <p>4 A. Prior to the meeting I filled out my</p> <p>5 part.</p> <p>6 THE REPORTER: My card?</p> <p>7 THE WITNESS: I'm sorry. My</p> <p>8 part.</p> <p>9 THE REPORTER: Thank you.</p> <p>10 BY MS. DeBRUICKER:</p> <p>11 Q. Who did you give your nomination form</p> <p>12 to?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you recall giving it to somebody</p> <p>15 prior to the nomination meeting?</p> <p>16 A. Yes.</p> <p>17 Q. Was it your understanding you still</p> <p>18 needed to be present at the nomination meeting to</p> <p>19 nominate Mr. Dougherty?</p> <p>20 A. I don't have an understanding of the</p> <p>21 rules and regulations, if that was a necessity or</p> <p>22 not.</p> <p>23 Q. I understand you and Mr. Dougherty</p> <p>24 have known each other for quite some time.</p> <p>25 A. Yes.</p>

14 (Pages 53 to 56)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 57</p> <p>1 Q. Do you know the last time anyone ran 2 against him as Business Manager? 3 A. No. I think it was way before my time 4 working in the office. 5 Q. Maybe further back than you could 6 remember? 7 A. Yeah. 8 Q. Do you recall the last time anyone ran 9 against any incumbent officer at Local 98? 10 A. I, personally, don't recall. 11 Q. In your knowledge of Mr. Dougherty, 12 does he -- 13 A. Can I change that answer? 14 Q. Sure. Please. 15 A. I apologize. 16 Q. Yeah, please. 17 A. I -- I do recall there being a prior 18 election where there were people that ran for 19 Executive Board. I don't remember which year it 20 was. 21 Q. Do you recall who those people were? 22 A. I know that one gentleman was named 23 Ken Rocks, and there was another one that I cannot 24 think of the name right now. 25 Q. Do you recall having any involvement</p>	<p style="text-align: right;">Page 59</p> <p>1 he thought. 2 BY MS. DeBRUICKER: 3 Q. Prior to the nomination meeting, had 4 you had any conversations with Mr. Dougherty about 5 Charles Battle? 6 A. Yes. 7 Q. Can you tell me the nature of those 8 conversations. 9 A. In fall of 2019, I believe it likely 10 was the November Union meeting, Mr. Battle was a 11 little outspoken. I shouldn't say a little. He 12 was very outspoken, and it honestly made me feel a 13 little bit uncomfortable. 14 So after the fact, I had a 15 brief conversation just saying that that Union 16 meeting was rather boisterous, and personally, it 17 made me feel uncomfortable, not that Mr. Battle 18 said anything particularly to me, just the general 19 feeling of the room. 20 Q. Do you recall what the subject matter 21 was that made you -- was -- well, let me ask a 22 better question. 23 What about it made you 24 uncomfortable? 25 A. His tone. He was antagonizing. I</p>
<p style="text-align: right;">Page 58</p> <p>1 in that election? 2 A. No recollection except for a small 3 clerical scene type of thing. If someone just 4 needed help, then I just helped them, meaning make 5 a copy, along those lines. 6 Q. In your knowledge of Mr. Dougherty, 7 was he considered a point of pride that people 8 don't run against the incumbents of Local 98? 9 MR. PODRAZA: Objection. Calls 10 for conjecture and speculation. Move to 11 strike. 12 But you can answer it. 13 THE WITNESS: I can only speak 14 for myself, and I, personally, consider him 15 a point of pride, but I don't know what 16 other people think. 17 BY MS. DeBRUICKER: 18 Q. Do you have a sense as to whether it 19 was important to him that his team be unopposed in 20 the election? 21 MR. PODRAZA: The same 22 objection. Calls for conjecture, 23 speculation. Move to strike. 24 You can answer. 25 THE WITNESS: I don't know what</p>	<p style="text-align: right;">Page 60</p> <p>1 personally felt like he was looking to start an 2 argument, start a fight, something along those 3 lines. 4 MR. PODRAZA: Who is "he"? 5 THE WITNESS: Excuse me. 6 Charles Battle. 7 BY MS. DeBRUICKER: 8 Q. Did you have any other conversations 9 with Mr. Dougherty regarding Charles Battle prior 10 to the election? 11 A. Not that I can recall. 12 Q. Have you had conversation with 13 Mr. Dougherty regarding Charles Battle since the 14 election? 15 A. Yes. 16 Q. Can you tell me the nature of those 17 conversations. 18 A. Pretty much the same conversation. I 19 believe it was our July 2021 meeting. Mr. Battle 20 was present and also was antagonizing, in my 21 opinion, and just afterwards I just, you know, 22 said that it made the room uncomfortable to me. 23 Q. Prior to the nominations meeting in 24 June 2020, did you ever speak with Mr. Dougherty 25 about Timothy McConnell?</p>

15 (Pages 57 to 60)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 61	Page 63
<p>1 A. No.</p> <p>2 Q. Do you know who Timothy McConnell is?</p> <p>3 A. No.</p> <p>4 Q. Have you had conversations with</p> <p>5 Mr. Dougherty since the June 2020 meeting</p> <p>6 regarding Mr. McConnell?</p> <p>7 A. No.</p> <p>8 Q. Prior to the nominations meeting of</p> <p>9 June 2020, did you have any conversations with</p> <p>10 Mr. Dougherty regarding Michael Coppinger?</p> <p>11 A. Not that I can recall.</p> <p>12 Q. Since the June 2020 meeting, do you</p> <p>13 recall having any conversations with Mr. Dougherty</p> <p>14 about Michael Coppinger?</p> <p>15 A. No.</p> <p>16 Q. Do you know who Mr. Coppinger is?</p> <p>17 A. No.</p> <p>18 THE REPORTER: Pardon me?</p> <p>19 MS. DeBRUICKER: Do you know</p> <p>20 who Mr. Coppinger is.</p> <p>21 BY MS. DeBRUICKER:</p> <p>22 Q. Just a moment.</p> <p>23 Going back to the Business</p> <p>24 Agent meeting of June 8th, 2020 --</p> <p>25 A. Okay.</p>	<p>1 don't think she gave him any advice. She</p> <p>2 never said that she -- that's all that he</p> <p>3 has to do.</p> <p>4 THE WITNESS: I -- I never said</p> <p>5 anything to Mr. Battle.</p> <p>6 MR. PODRAZA: She wouldn't even</p> <p>7 know the procedure.</p> <p>8 THE REPORTER: What did you</p> <p>9 say?</p> <p>10 MR. PODRAZA: She wouldn't even</p> <p>11 know the procedure.</p> <p>12 THE REPORTER: Thank you.</p> <p>13 THE WITNESS: I just know that</p> <p>14 I said to Mr. Battle that he was here by</p> <p>15 5:00.</p> <p>16 BY MS. DeBRUICKER:</p> <p>17 Q. Were you surprised to hear that</p> <p>18 Mr. Battle was not a nominee in that election</p> <p>19 process?</p> <p>20 A. I don't think I gave thought to that.</p> <p>21 Q. Did you mention to anyone that</p> <p>22 Mr. Battle had submitted a form and should be</p> <p>23 considered a nominee?</p> <p>24 A. Not that I can recall.</p> <p>25 Q. Do you have any other information</p>
Page 62	Page 64
<p>1 Q. -- do you recall whether Mark Lynch</p> <p>2 was in attendance?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. You -- you know who Mark Lynch is --</p> <p>5 A. Yes.</p> <p>6 Q. -- is that right?</p> <p>7 A. I know who Mark Lynch is, yes.</p> <p>8 Q. Did you see or hear that Mr. Lynch got</p> <p>9 a text from Mr. McConnell during that meeting?</p> <p>10 A. In all honesty, I -- I -- honestly, I</p> <p>11 just didn't really pay attention that night.</p> <p>12 Q. Do you recall there being a phone call</p> <p>13 being made during that meeting?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you have any recollection that a</p> <p>16 phone call was not made at that meeting?</p> <p>17 A. No.</p> <p>18 Q. Do you recall seeing or hearing</p> <p>19 Mr. Dougherty on the phone during that meeting?</p> <p>20 A. I don't recall.</p> <p>21 Q. So Mr. Battle submitted his form, and</p> <p>22 you said there's nothing else he -- else he needed</p> <p>23 to do to be nominated that night. Do I have that</p> <p>24 correct? Is that --</p> <p>25 MR. PODRAZA: That was -- I</p>	<p>1 regarding the June 2020 election you think it</p> <p>2 would be important for the Secretary of Labor to</p> <p>3 know?</p> <p>4 A. Just that Mr. Battle was there by</p> <p>5 5:00 and was at the Union Hall.</p> <p>6 MS. DeBRUICKER: Okay. I have</p> <p>7 no further questions.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MR. PODRAZA:</p> <p>10 Q. Tara, did you feel competent to give</p> <p>11 advice on the nomination process, and how it was</p> <p>12 going to go in 2020?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. I did not know the rules.</p> <p>16 Q. And did you give anybody advice on the</p> <p>17 nomination process in June 2020?</p> <p>18 A. No.</p> <p>19 Q. In the Secretary's Complaint, let me</p> <p>20 read you something. At paragraph 24 of the</p> <p>21 Complaint it says, At defendant's member meetings,</p> <p>22 meaning Local 98's membership meetings, in</p> <p>23 November 2019, January 2020 and February 2020,</p> <p>24 Battle questioned defendant's Business Manager</p> <p>25 John Dougherty and other Union leadership about</p>

16 (Pages 61 to 64)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 65</p> <p>1 the -- about how the Union was being run. That's</p> <p>2 in the pleading.</p> <p>3 Were you at any of those</p> <p>4 meetings?</p> <p>5 A. I apologize. Could you read those</p> <p>6 dates again?</p> <p>7 Q. Sure. November 2019, January 2020 and</p> <p>8 then February 2020.</p> <p>9 A. I know I was there for January --</p> <p>10 excuse me, for November of '19 and January of</p> <p>11 2020. I don't recall February of 2020.</p> <p>12 Q. And normally, how many members attend</p> <p>13 the members meeting, generally?</p> <p>14 A. I would say maybe 150 to 200.</p> <p>15 However, I've never counted.</p> <p>16 Q. Okay. Did you consider Mr. Battle's</p> <p>17 behavior to be rude at any of those meetings that</p> <p>18 you attended?</p> <p>19 A. Yes.</p> <p>20 Q. Which ones?</p> <p>21 A. Specifically the November of 2019 I</p> <p>22 remember.</p> <p>23 Q. And did Mr. Battle appear to be</p> <p>24 antagonistic at that meeting?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 67</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. Did you -- at the membership meetings</p> <p>3 prior to the June 2020 nomination proceeding, did</p> <p>4 Mr. Battle appear to be timid when he was speaking</p> <p>5 before the membership?</p> <p>6 A. Not in my opinion.</p> <p>7 Q. Did he seem to be afraid to speak up</p> <p>8 when he was speaking in front of the membership?</p> <p>9 A. Not in my opinion.</p> <p>10 Q. Now, you interacted with Mr. Battle on</p> <p>11 June 9, 2020 when the nomination proceeding was</p> <p>12 occurring, right?</p> <p>13 A. Yes.</p> <p>14 Q. Did Mr. Battle appear, from your</p> <p>15 vantage point, to be uncomfortable?</p> <p>16 A. No.</p> <p>17 Q. Did he appear to be intimidated?</p> <p>18 A. No.</p> <p>19 Q. Did he appear to be anything but</p> <p>20 relaxed and open in his conversation with you?</p> <p>21 A. He didn't appear to be anything except</p> <p>22 cordial with me, kind.</p> <p>23 Q. And did Mr. Battle raise with you any</p> <p>24 concerns that he had regarding the nomination</p> <p>25 process?</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. Did Mr. Battle appear to be</p> <p>2 confrontational?</p> <p>3 A. Yes.</p> <p>4 Q. Did Mr. Battle appear to be provoking</p> <p>5 an argument?</p> <p>6 A. Yes.</p> <p>7 Q. And I think you said his behavior made</p> <p>8 you feel uncomfortable; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Is what we just reviewed and your</p> <p>11 description of Mr. Battle's behavior why you felt</p> <p>12 uncomfortable?</p> <p>13 A. Yes.</p> <p>14 Q. And --</p> <p>15 MS. DeBRUICKER: Objection.</p> <p>16 Counsel, what's the relevance of this to the</p> <p>17 leading issues in the case?</p> <p>18 MR. PODRAZA: Well, I think we</p> <p>19 disagree on that, but I don't find</p> <p>20 Mr. Battle to be a shrinking violet, and I</p> <p>21 think his behavior pre the June 2020 and</p> <p>22 post reflects that so as to address his</p> <p>23 concerns of being intimidated and fearful of</p> <p>24 retaliation, but we can argue that in</p> <p>25 briefings with the Court.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Not that I can recall.</p> <p>2 Q. Did he ask you for any instructions on</p> <p>3 how the process was to be done, or have any</p> <p>4 questions seeking guidance from you to answer?</p> <p>5 A. He did not ask me any questions</p> <p>6 regarding the process.</p> <p>7 Q. And I believe you said that</p> <p>8 Mr. Battle's behavior from November 2019 continued</p> <p>9 after the June 2020 nomination proceeding at the</p> <p>10 membership meetings; is that correct?</p> <p>11 A. Yes.</p> <p>12 MS. DeBRUICKER: Objection to</p> <p>13 form.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Right?</p> <p>16 When -- the most recent you</p> <p>17 went to that Mr. Battle was at, when was that?</p> <p>18 A. It would have been in July of 2021,</p> <p>19 the fourth Tuesday.</p> <p>20 Q. And did you observe Mr. Battle's</p> <p>21 behavior to be rude?</p> <p>22 A. Yes.</p> <p>23 Q. Did you observe Mr. Battle's behavior</p> <p>24 to be antagonistic?</p> <p>25 A. Yes.</p>

17 (Pages 65 to 68)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 69	Page 71
<p>1 Q. Did you appear -- did you observe</p> <p>2 Mr. Battle's behavior to be confrontational?</p> <p>3 A. Yes.</p> <p>4 Q. Did you observe Mr. Battle's behavior</p> <p>5 to be argumentative?</p> <p>6 A. Yes.</p> <p>7 Q. Did Mr. Battle's behavior at that</p> <p>8 meeting make you uncomfortable?</p> <p>9 MS. DeBRUICKER: I'm going to</p> <p>10 object. Judge McHugh has ruled that this</p> <p>11 line of questioning is not relevant.</p> <p>12 THE REPORTER: I'm sorry. Has?</p> <p>13 MS. DeBRUICKER: I'm going to</p> <p>14 object that Judge McHugh has ruled this line</p> <p>15 of questioning is not relevant to the case.</p> <p>16 MR. PODRAZA: You got your</p> <p>17 objection.</p> <p>18 BY MR. PODRAZA:</p> <p>19 Q. Did you -- did he make you</p> <p>20 uncomfortable?</p> <p>21 A. Yes.</p> <p>22 Q. Now, could you describe for me, going</p> <p>23 back now to June 9, 2020, the nomination night,</p> <p>24 what was the mood, or how would you describe the</p> <p>25 mood of the membership that you observed?</p>	<p>1 Q. Did you sense any unease among the</p> <p>2 membership?</p> <p>3 A. No.</p> <p>4 Q. Did you sense any intimidation or</p> <p>5 threats among the membership?</p> <p>6 A. No.</p> <p>7 Q. In your interactions with Mr. Battle</p> <p>8 on the night of June 9th, 2020, did he leave you</p> <p>9 with the impression that he was tense, under</p> <p>10 stress, agitated, apprehensive, worried, anxious,</p> <p>11 uneasy, or felt intimidation towards it?</p> <p>12 MS. DeBRUICKER: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: No.</p> <p>15 MR. PODRAZA: That's all I have</p> <p>16 at this time. Thank you.</p> <p>17 BY MS. DeBRUICKER:</p> <p>18 Q. Ms. Chupka, you mentioned sort of</p> <p>19 the -- the atmosphere the -- the night of the</p> <p>20 elections. About how many people were there, in</p> <p>21 your estimation?</p> <p>22 A. 200 to 250.</p> <p>23 Q. Who arranged for the food trucks?</p> <p>24 A. The Business Office.</p> <p>25 Q. Were people wearing campaign shirts?</p>
Page 70	Page 72
<p>1 A. It was a friendly atmosphere. There</p> <p>2 was food trucks. I am almost positive there was</p> <p>3 an ice cream truck. Members were just gathering,</p> <p>4 socializing, you know, in large groups, small</p> <p>5 groups, everywhere, in our parking lot, in front</p> <p>6 of our building, and all kind of along Spring</p> <p>7 Garden to a point.</p> <p>8 Q. Did you sense any tension among the</p> <p>9 membership?</p> <p>10 A. No.</p> <p>11 Q. Did you sense any stress among the</p> <p>12 membership?</p> <p>13 A. No.</p> <p>14 Q. Did you sense any agitation among the</p> <p>15 member?</p> <p>16 A. No.</p> <p>17 Q. Did you sense any apprehension among</p> <p>18 the -- the membership?</p> <p>19 A. No.</p> <p>20 Q. Did you sense any worry among the</p> <p>21 membership?</p> <p>22 A. No.</p> <p>23 Q. Did you sense any anxiety among the</p> <p>24 membership?</p> <p>25 A. No.</p>	<p>1 A. I don't recall.</p> <p>2 Q. Does Mr. Dougherty have campaign</p> <p>3 shirts made for elections, typically?</p> <p>4 A. I couldn't answer that question. I --</p> <p>5 I don't recall.</p> <p>6 Q. You don't recall whether people were</p> <p>7 wearing Doc 2020 shirts, is what --</p> <p>8 A. I don't recall.</p> <p>9 Q. Why were that many people there?</p> <p>10 A. That's up to them. The members were</p> <p>11 notified, so I -- I suppose that if a member wants</p> <p>12 to come, they could.</p> <p>13 Q. But there was a limited capacity in</p> <p>14 the meeting hall, correct?</p> <p>15 A. Based upon the letter sent to the</p> <p>16 members, yes.</p> <p>17 THE REPORTER: Based upon the</p> <p>18 what?</p> <p>19 THE WITNESS: The letters sent</p> <p>20 to the members.</p> <p>21 MS. DeBRUICKER: I have no</p> <p>22 other questions.</p> <p>23 THE WITNESS: Thank you.</p> <p>24 MR. PODRAZA: Just one.</p> <p>25 BY MR. PODRAZA:</p>

18 (Pages 69 to 72)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

<p style="text-align: right;">Page 73</p> <p>1 Q. In prior nomination proceedings, had</p> <p>2 you also observed a large number of members</p> <p>3 present, whether inside the building or outside</p> <p>4 the building?</p> <p>5 A. Yes.</p> <p>6 Q. So it wouldn't be unusual that on</p> <p>7 June 9, 2020, the members would take interest in</p> <p>8 what was going to happen and be present in -- in a</p> <p>9 decent number, correct?</p> <p>10 A. Yes, it would be --</p> <p>11 MS. DeBRUICKER: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: -- a -- a regular</p> <p>14 occurrence.</p> <p>15 MR. PODRAZA: Thank you.</p> <p>16 MS. DeBRUICKER: Okay. I think</p> <p>17 we're done.</p> <p>18 THE VIDEOGRAPHER: This</p> <p>19 concludes media one and the end of the</p> <p>20 videotaped deposition of Tara Chupka. We</p> <p>21 are going off the video record on</p> <p>22 September 8th, 2021 at 3:26 p.m.</p> <p>23 - - -</p> <p>24 (Whereupon, at 3:26 p.m., the</p> <p>25 witness was excused and the deposition was</p>	<p style="text-align: right;">Page 75</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 COMMONWEALTH OF PENNSYLVANIA :</p> <p>4 : SS</p> <p>5 COUNTY OF PHILADELPHIA :</p> <p>6</p> <p>7</p> <p>8 I, ROBIN FRATTALI, Registered</p> <p>9 Professional Reporter - Notary Public, within and</p> <p>10 for the Commonwealth of Pennsylvania, do hereby</p> <p>11 certify that the proceedings, evidence, and</p> <p>12 objections noted are contained fully and</p> <p>13 accurately in the notes taken by me of the</p> <p>14 preceding deposition, and that this copy is a</p> <p>15 correct transcript of the same.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 <u>ROBIN FRATTALI</u></p> <p>21 Registered Professional</p> <p>22 Reporter - Notary Public</p> <p>23 NOTARY ID: 1053372</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 74</p> <p>1 concluded.)</p> <p>2 - - -</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 76</p> <p>1 I N S T R U C T I O N S T O T H E W I T N E S S</p> <p>2 Read your deposition over</p> <p>3 carefully. It is your right to read your</p> <p>4 deposition and make changes in form or substance.</p> <p>5 You should assign a reason in the appropriate</p> <p>6 column on the errata sheet for any change made.</p> <p>7 After making any changes in form or</p> <p>8 substance which have been noted on the following</p> <p>9 errata sheet along with the reason for any change,</p> <p>10 sign your name on the errata sheet and date it.</p> <p>11 Then sign your deposition at the</p> <p>12 end of your testimony in the space provided. You</p> <p>13 are signing it subject to the changes you have</p> <p>14 made in the errata sheet, which will be attached</p> <p>15 to the deposition before filing. You must sign it</p> <p>16 in front of a witness. Have the witness sign in</p> <p>17 the space provided. The witness need not be a</p> <p>18 notary public. Any competent adult may witness</p> <p>19 your signature.</p> <p>20 Return the original errata sheet to</p> <p>21 your counsel promptly. Court rules require filing</p> <p>22 within thirty days after you receive the</p> <p>23 deposition.</p> <p>24</p> <p>25</p>

19 (Pages 73 to 76)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

Page 77

1 ERRATA SHEET

2 Attach to Deposition of: Tara D. Chupka, Esquire

3 Taken on: September 8, 2021

4 In the matter of: Walsh vs. Local 98

5 PAGE LINE NO. CHANGE REASON

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____

Page 78

1 SIGNATURE PAGE

2

3 ---

4

5 I hereby acknowledge that I have

6 read the foregoing transcript, dated September 8,

7 2021 and the same is a true and correct

8 transcription of the answers given by me to the

9 questions propounded, except for the changes, if

10 any, noted on the Errata Sheet.

11

12 ---

13

14

15

16

17 SIGNATURE: _____

18 Tara D. Chupka, Esquire

19 DATE: _____

20

21 WITNESSED BY: _____

22

23

24

25

20 (Pages 77 to 78)

SUMMIT COURT REPORTING, INC.

215.985.2400 * 609.567.3315 * 800.447.8648 * www.summitreporting.com

Walsh v. Local 98

TARA D. CHUPKA, ESQUIRE, 9/8/21

A ability 10:16 able 10:12 22:8 28:12 50:2 accurately 10:17 75:13 acknowledge 78:5 Act 8:8 15:24 action 1:4 6:21 8:6 active 38:17 activities 41:10 actual 38:25 48:24 address 66:22 administrator 35:7 administrator's 41:7 adult 76:18 advance 35:17 advice 16:13,17,21 17:1,5 63:1 64:11 64:16 affect 10:16 affiliation 7:9 aforegoing 78:6 afraid 67:7 afternoon 8:2 Agent 17:9,13,14 17:18,20,25 18:3 18:4,7,20 19:5,13 19:19 20:2,8,10 20:14,25 21:14 23:24 24:7,11 45:23 61:24 Agent's 21:19 Agents 18:13 agitated 71:10 agitation 70:14 ago 12:6 agree 34:16 agreed 40:17 agreement 6:7 ahead 15:9 28:25 alleging 8:7 allowed 39:15,19 47:1 aloud 52:6 and/or 5:9 30:13 ANNA 3:3 announced 19:19 52:9 answer 5:3 9:3,4,15 22:3 27:14 37:16 37:25 38:4 40:2 49:14 50:19 57:13 58:12,24 68:4 72:4	answered 49:13 answers 9:1 28:4 78:8 antagonistic 65:24 68:24 antagonizing 59:25 60:20 anxiety 70:23 anxious 71:10 anybody 52:17 53:3 55:17 64:16 apologize 10:25 15:11 53:8 57:15 65:5 appear 65:23 66:1,4 67:4,14,17,19,21 69:1 APPEARANCES 2:1 apprehension 70:17 apprehensive 71:10 apprentice 35:6 approached 32:21 32:21 appropriate 37:25 76:5 approximately 1:18 11:8,17 12:3,7,14 area 33:18 argue 66:24 argument 60:2 66:5 argumentative 69:5 Arms 45:17,21 46:1 arranged 28:24 29:1 71:23 arrive 35:21 arrived 45:5 46:13 46:16 asked 31:10 33:3,8 33:10,14 36:23 37:14 42:7 49:12 asking 15:4 39:12 assign 76:5 assigned 39:6 assist 14:1,5 28:13 assistance 30:17 Assistant 2:5 7:12 12:20 13:3 19:16 assisted 30:14 assume 9:16 assumed 48:21 49:7 assumption 49:4 atmosphere 70:1	71:19 atrium 33:20 atrium's 33:20 Attach 77:2 attached 76:14 attend 17:9,12 18:19 20:7,10,14 21:2 51:14 54:17 65:12 attendance 18:16 62:2 attended 13:8 30:1 51:18 65:18 attends 19:3 attention 62:11 attorney 2:5 3:3,8 7:12 8:5 9:21,22 Attorney's 1:15 2:3 6:24 Availability 20:17 available 35:3 aware 15:25 18:7 19:1,4 41:11 44:9 47:16,22 50:12 awkward 10:20,25	69:2,4,7 becoming 13:14 beginning 1:17 12:11 behalf 7:15 behavior 65:17 66:7,11,21 68:8 68:21,23 69:2,4,7 believe 11:7 21:15 29:8 30:12 31:5 32:19 33:19 34:1 34:9,17 36:12 40:25 41:14,24 42:24 45:14 46:2 46:24 51:4 52:13 59:9 60:19 62:3 68:7 belonged 31:19 BENNETT 3:3 best 9:4 29:19 31:17 40:20 better 59:22 Bill 7:17,18 bit 33:4 34:4 59:13 blank 31:6,15 34:7 36:5 Board 53:18,19 57:19 boisterous 59:16 brain 49:20 Brian 31:13 32:4 51:5 52:21 Brian's 32:1,4 brief 59:15 briefings 66:25 Broad 2:11 Brotherhood 1:9 6:18 brought 8:7 34:15 34:25 35:25 building 13:20,21 54:22 70:6 73:3,4 buildings 35:4 bullet 20:6 bunch 18:9 Burrows 31:13 37:18,21 38:10 39:10,14 51:5,8 52:21 Business 12:20,22 13:1,4 14:2 17:9 17:13,14,18,20,24 18:3,4,7,12,19,20 19:5,12,16,16,18 20:2,8,10,14,24 21:14,19 23:24	24:6,11 27:7,8 38:7 45:23 47:5 52:15 53:16 55:11 55:19 57:2 61:23 64:24 71:24	
		B	C		
		back 18:2 34:3 41:17 45:6 57:5 61:23 69:23 bar 13:9,10 Based 25:14 72:15 72:17 basement 47:3 Bates 4:12 43:5 Battle 22:24 23:2 29:17,18 31:10 32:20 33:2,8,16 33:17 36:4,22 37:14 39:11,15 40:23 41:16,23 42:11,13 43:17 44:11,15,16,20,22 46:15 48:7 53:22 53:24 54:7 59:5 59:10,17 60:6,9 60:13,19 62:21 63:5,14,18,22 64:4,24 65:23 66:1,4,20 67:4,10 67:14,23 68:17 71:7 Battle's 16:22 46:21 47:20 48:3 48:12 54:4 65:16 66:11 68:8,20,23	24:6,11 27:7,8 38:7 45:23 47:5 52:15 53:16 55:11 55:19 57:2 61:23 64:24 71:24	C 75:1,1 calendar 19:7 call 19:22 26:18 27:9,14,20,23,25 28:2 30:13 33:12 34:9 37:21 51:13 62:12,16 called 26:25 27:12 27:16 33:13 35:23 37:18 Calls 39:25 40:12 50:16 58:9,22 campaign 71:25 72:2 candidates 4:12 43:4 48:9 capacity 11:23 17:12 18:20 72:13 card 56:6 carefully 76:3 case 10:9 66:17 69:15 cell 33:22 certain 17:22 19:3 20:6 47:1 certification 6:8 Certified 1:22 5:12 certify 75:11 Chair 52:13,19 Chairman 55:16 Chairperson 51:6 chairs 47:2 chance 25:11 change 15:20 57:13 76:6,9 77:4 changes 76:4,7,13 78:9 charge 17:22 38:10 Charles 16:22 22:24 23:2 29:17 29:18 59:5 60:6,9 60:13 Chestnut 1:15 2:5 2:16 7:1 Chief 3:8 Chupka 1:13 4:4 6:15 7:21 8:2 43:12 71:18 73:20 77:2 78:18	

Chupka-1 4:12 43:2 43:7 circumstances 20:16 25:19 City 20:4 46:24 civil 1:4 3:4 6:21 8:6 clarify 53:23 clear 8:25 9:15 39:1 CLEARY 2:15 clerical 12:13,13,20 25:3,24 58:3 close 26:14 closely 37:23 column 76:6 combination 19:14 come 14:2 19:20 26:22 28:12 31:25 54:21 72:12 comfortable 15:18 coming 41:13,14 Commonwealth 1:20 75:3,10 communicated 52:12 compare 48:12 competent 64:10 76:18 Complaint 64:19,21 complete 10:12 43:20 completed 31:15 31:18,24 33:10 36:1,23 37:2 39:15,20,24 47:20 49:1,25 50:10,25 51:20 compliance 17:6 concerns 66:23 67:24 concluded 74:1 concludes 73:19 confrontational 66:2 69:2 conjecture 40:13 50:17 58:10,22 connection 8:9 16:21 consider 13:19 37:24 43:19,21 49:20 58:14 65:16 considered 58:7 63:23 considering 39:23 consists 35:5 53:18 53:19	Constitution 39:7 46:3 Constitution-wise 50:3 contained 33:9 75:12 content 35:20 continued 68:8 convenes 18:5 conversation 44:19 59:15 60:12,18 67:20 conversations 59:4 59:8 60:8,17 61:4 61:9,13 copies 6:3 25:6,16 Coppinger 23:15 23:18 61:10,14,16 61:20 copy 58:5 75:14 cordial 33:2 67:22 correct 13:1 27:3 31:14 35:3 37:16 43:24 49:15 62:24 66:8 68:10 72:14 73:9 75:15 78:7 correctly 18:11 55:9 counsel 2:8,13,19 6:7 7:8 8:20 11:14 11:24 12:2 13:12 13:15,18,20 14:17 16:12 40:16 66:16 76:21 count 46:23 48:21 49:21 counted 65:15 counting 50:22 51:9 COUNTY 75:5 couple 33:25 43:13 court 1:1,19,22,22 6:20 7:6 8:22 66:25 76:21 COVID 22:20 46:23 54:17 cream 70:3 current 11:12 17:8 currently 11:9	dates 65:6 day 19:8 29:1 32:14 day-to-day 15:20 16:9 days 76:22 deadline 35:18 DeBRUICKER 2:4 4:6 7:11,12 8:1,5 10:23 11:2 14:19 15:3,12 32:5 40:5 40:10,16,22 43:1 43:11 47:13,17 49:9,22 50:23 56:10 58:17 59:2 60:7 61:19,21 63:16 64:6 66:15 68:12 69:9,13 71:12,17 72:21 73:11,16 decent 73:9 decided 47:8 decides 19:12 defendant 1:10 2:13,19 7:15,19 defendant's 64:21 64:24 Defendants 6:19 defended 8:17 Denny 3:10 7:5 Department 1:5,14 2:3 3:5 6:16 depending 18:17 depends 19:17 deposed 8:11 deposition 1:13 5:1 6:15,23 8:15,17 9:20 73:20,25 75:14 76:2,4,11 76:15,23 77:2 depositions 10:8 describe 13:13 14:9 14:15 15:13,15 17:11 24:23 69:22 69:24 description 4:11 13:18 66:11 desire 24:16 desk 26:22 28:4 46:10 difference 19:2 differences 47:19 47:23 different 17:16,16 18:9 DIRECTIONS 5:3 directly 37:23	disagree 66:19 Disclosure 8:8 15:24 discussed 20:2 21:14,16 22:9,21 22:24 23:3,7,10 23:15,18 24:1,10 discussion 21:18 21:21 22:2 54:16 55:2,6 discussions 24:10 30:9,19 distracting 10:15 District 1:1,1 2:4 6:20,21,25 Division 3:4 Doc 72:7 documents 5:6 10:1 25:5 doing 25:9,10 DOL 10:4 DOL_LOCAL 4:13 43:5 doorway 33:21 Dougherty 12:24 18:19 24:24 38:8 55:10,20,22 56:19 56:23 57:11 58:6 59:4 60:9,13,24 61:5,10,13 62:19 64:25 72:2 due 22:20 24:4 26:25 29:10 46:23 duly 7:22 duties 17:8 45:25 dwell 12:8	Electrical 1:9 6:18 email 19:21 employed 11:9 employee 39:8 45:12 employees 17:16 entirety 16:1 errata 76:6,9,10,14 76:20 77:1 78:10 Esquire 1:14 2:4,10 2:16 3:3,7 4:4 7:21 77:2 78:18 estimation 71:21 evening 13:8 events 51:12 eventually 50:25 evidence 75:11 exact 35:20 55:18 exactly 28:8 51:10 exam 13:9,10 EXAMINATION 4:5 7:25 examined 7:23 Examining 53:19 example 14:4 excuse 13:23 14:21 31:7 42:3 51:11 60:5 65:10 excused 73:25 Executive 12:20 13:3 53:18 57:19 Exhibit 4:11 43:2,6 EXHIBITS 4:9 expect 8:20 extremely 22:11
			<hr/> E <hr/> E 4:1 75:1,1 Eastern 1:1 2:4 6:20,25 either 22:8 23:4,5,6 23:13,21 37:11,13 51:9 election 16:14,18 16:23 21:19,22,24 23:25 24:1,4,21 25:2 38:11,15,19 38:22 46:5 54:14 57:18 58:1,20 60:10,14 63:18 64:1 election-related 41:9 elections 8:10 25:22 71:20 72:3	<hr/> F <hr/> F 75:1 face 30:4 face-to-face 29:19 fact 28:15 59:14 facts 10:17 fair 16:6 fall 59:9 familiar 45:18 family 10:15 far 10:9 14:18,22 15:1 faster 15:4,5 fearful 66:23 February 64:23 65:8,11 feel 15:18 59:12,17 64:10 66:8 feeling 59:19 feet 33:25

<p>felt 45:1 60:1 66:11 71:11</p> <p>fight 60:2</p> <p>figure 48:23</p> <p>file 48:15,19</p> <p>filing 6:8 76:15,21</p> <p>fill 26:20 34:4 36:11 44:3</p> <p>filled 31:6 42:2,3 55:23 56:4</p> <p>financial 35:6 41:8</p> <p>find 35:17 66:19</p> <p>fine 16:5</p> <p>first 4:10 7:22 12:4 19:10 28:11 33:7 52:14</p> <p>Fleming 1:24</p> <p>floor 28:11</p> <p>folder 31:5,8,12,16 32:9,14,17 33:9 36:3 44:24 45:4,6 46:7,18,19 47:21 47:24 48:3,12,15 48:20</p> <p>following 76:8</p> <p>follows 7:23</p> <p>food 70:2 71:23</p> <p>foot 47:2</p> <p>footage 46:25</p> <p>form 6:10 26:20 29:15 31:11 32:22 33:24 34:2,11 35:24 36:5,8,16 36:19 40:18,24 41:17,21 42:2 43:17,19 44:3,6 44:16,16,22 46:18 46:21 47:20 48:3 54:8,21 55:21,23 56:11 62:21 63:22 68:13 71:13 73:12 76:4,7</p> <p>formal 18:4,7</p> <p>forms 29:9 31:6,15 31:15,18,22,24 33:9,15,16 34:7 34:14,17,18,24 35:2,10,17 36:1 36:23 37:2,15 39:16,20,24 45:2 46:22 47:10,13,20 48:11 49:2,25 50:7,10,14 51:1,8 51:20,24 52:2,5 52:22</p> <p>fourth 68:19</p>	<p>frame 12:3 20:24 33:6</p> <p>Frattali 1:18 7:7 75:8,20</p> <p>friend 40:7</p> <p>friendly 70:1</p> <p>front 28:4 67:8 70:5 76:16</p> <p>fully 75:12</p> <p>fund 35:7 41:7</p> <p>further 44:19 57:5 64:7</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>Garden 22:16 34:20 34:24 70:7</p> <p>gathering 70:3</p> <p>general 14:5 20:1 59:18</p> <p>generalized 17:14 33:18</p> <p>generally 18:9 65:13</p> <p>gentleman 57:22</p> <p>getting 18:2</p> <p>give 12:7,9 13:17 14:3,14 15:14 18:24 36:7 40:24 41:16 43:12 46:7 50:25 56:11 64:10 64:16</p> <p>given 8:20 51:4 78:8</p> <p>giving 56:14</p> <p>go 14:22 15:9 19:24 26:5,16 30:18 31:21 32:17,22,24 34:3 45:1 64:12</p> <p>goal 8:25</p> <p>going 14:22 15:3 16:3 20:4,18 28:10 30:10 34:3 43:1 46:10,20 47:4 48:19,21 52:15 53:1 55:10 61:23 64:12 69:9 69:13,22 73:8,21</p> <p>good 8:2 9:13</p> <p>gotten 30:25</p> <p>groups 17:16 70:4 70:5</p> <p>guidance 30:23 68:4</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hall 26:6,16 27:3</p>	<p>28:11 30:6,11,16 31:2 32:17 34:8 34:14 38:25 47:4 64:5 72:14</p> <p>Hammonton 1:24</p> <p>handed 32:22 33:1 36:3</p> <p>handle 30:18</p> <p>happen 46:20 47:24 49:11 73:8</p> <p>happened 33:6</p> <p>happens 32:17</p> <p>head 15:21 46:23</p> <p>head-count 47:9 51:17</p> <p>hear 9:10 10:21 62:8 63:17</p> <p>heard 6:19 9:16 24:9 45:16</p> <p>hearing 62:18</p> <p>held 6:23 11:15 12:13 19:6 20:20 22:14,15</p> <p>help 11:21 58:4</p> <p>helped 58:4</p> <p>helping 25:24</p> <p>Hi 8:3</p> <p>high 25:11</p> <p>hired 11:19</p> <p>hold 19:12 21:24</p> <p>holding 21:21</p> <p>honestly 15:18 22:3 22:11 24:2 45:14 59:12 62:10</p> <p>honesty 21:5,7 54:13 62:10</p> <p>hot 22:13</p> <p>hour-to-hour 15:20</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>IBEW 3:8 7:15 39:7 46:3 50:3</p> <p>ice 70:3</p> <p>ID 75:23</p> <p>identification 43:7</p> <p>identified 53:13</p> <p>identify 53:5,9</p> <p>immobilizer 22:12</p> <p>important 9:2 58:19 64:2</p> <p>impression 71:9</p> <p>In-House 11:14,24 12:2 13:11,15,18</p> <p>included 31:22 48:3</p> <p>incumbent 50:11 50:14 57:9</p>	<p>incumbents 58:8</p> <p>INDEX 5:1</p> <p>indicating 37:4</p> <p>information 5:6 32:6 63:25</p> <p>injury 33:3</p> <p>inquiring 29:13</p> <p>inside 73:3</p> <p>instructing 15:8</p> <p>instructions 30:22 36:7 68:2 76:1</p> <p>interacted 67:10</p> <p>interacting 21:9</p> <p>interactions 44:10 71:7</p> <p>interchangeable 35:22</p> <p>interchangeably 27:5</p> <p>interchanged 35:4</p> <p>interest 9:14 73:7</p> <p>International 1:8 6:17</p> <p>interview 10:3,4</p> <p>intimidated 66:23 67:17</p> <p>intimidation 71:4 71:11</p> <p>introduce 7:9</p> <p>involvement 57:25</p> <p>issue 14:2 51:17</p> <p>issues 10:15 20:3 66:17</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>J 1:4 6:16 12:24 55:20</p> <p>JACK 3:7</p> <p>January 64:23 65:7 65:9,10</p> <p>Jersey 1:24</p> <p>jive 20:21</p> <p>job 13:17 17:8,23 20:3 24:18 28:8 39:6</p> <p>jobs 20:3</p> <p>Joe 7:14 9:23</p> <p>John 3:7 12:24 24:24 38:7 55:20 64:25</p> <p>Josem 2:15,16 7:17 7:18,18</p> <p>JOSEPH 2:10</p> <p>jpodraza@lamb... 2:13</p> <p>JR 2:10</p>	<p>Judge 69:10,14</p> <p>July 60:19 68:18</p> <p>June 8:9 16:13,18 16:22 20:18,20,25 21:11,13 22:10 23:23,25 24:11 25:25 60:24 61:5 61:9,12,24 64:1 64:17 66:21 67:3 67:11 68:9 69:23 71:8 73:7</p> <p>Justice 1:14 2:3</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 15:4,21</p> <p>Ken 57:23</p> <p>kind 19:24 25:17 33:2,5 34:4 67:22 70:6</p> <p>kinds 14:11</p> <p>knew 29:1,25 48:7 49:5</p> <p>know 9:8,11 14:7 14:25 18:1,7 19:18 22:3 25:25 27:22,24 28:1,8,9 28:14,17,20,22,23 29:5,12 30:6 31:18,24 32:13,15 32:22 33:7,11,16 34:16 35:1,16 37:15,25 38:12,18 39:6 42:3 45:20 49:7,18 50:3,8 51:23,23 52:1 54:13,15 57:1,22 58:15,25 60:21 61:2,16,19 62:4,7 62:14 63:7,11,13 64:3,15 65:9 70:4</p> <p>knowledge 29:25 31:17 34:23 35:9 57:11 58:6</p> <p>known 29:21 38:4 56:24</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>Labor 1:4,5 3:4,5 6:16 7:13 8:6,7,8 15:23 64:2</p> <p>LAMB 2:10</p> <p>large 14:3 70:4 73:2</p> <p>late 26:24 28:6 46:12</p> <p>LAURA 3:3</p> <p>Lauren 2:4 7:11 8:4</p>
--	--	--	--	---

10:22 lauren.debruicke... 2:7 Law 13:8 lawsuit 17:2 leadership 64:25 leading 23:25 66:17 learn 19:19 45:25 leave 71:8 legal 3:11 13:11,14 14:10,15 15:16 16:12,17,21 17:1 17:5 letter 35:19,21 42:6 72:15 letters 72:19 liaison 13:24 liaisons 13:19 limited 72:13 line 69:11,14 77:4 lines 18:25 25:7 38:25 41:25 50:4 52:14,18 55:16 58:5 60:3 list 19:23 20:6 listen 9:2,4 literally 15:20 little 33:4 34:4 59:11,11,13 LLP 2:15 LMRDA 16:4,7 17:6 Local 1:8 3:8 6:18 7:15 8:7 11:3,6,8 11:10,13,19,22 12:5,10,12,18 13:14 16:13,17,21 17:1,5,21 18:4 24:13 26:21 45:12 45:13 57:9 58:8 64:22 77:3 located 27:6,6 location 17:22,23 26:19 28:2 Logistics 38:23 long 11:15 14:7 look 31:8,22 43:13 46:2 49:1,24 54:20 looking 20:24 60:1 lot 22:15 70:5 Lynch 62:1,4,7,8	making 76:7 man 26:22 46:10 Management 3:4 8:8 15:23 Manager 12:21,22 13:1,4 14:2 18:21 19:16,16 38:7 47:6 52:15 53:16 55:11,19 57:2 64:24 manila 31:5 Mark 62:1,4,7 marked 43:2,6 Martin 1:4 6:16 matter 6:15 59:20 77:3 McConnell 23:7,10 60:25 61:2,6 62:9 McERLANE 2:10 McHugh 69:10,14 mean 13:22 14:23 18:12 22:4 34:21 35:19 42:5 45:17 53:23 meaning 18:15 33:6 58:4 64:22 means 13:25 35:11 meant 42:6 media 6:14 73:19 medications 10:16 meet 9:24 meeting 17:14,15 18:4,7,10,17 19:10,13,20 20:14 20:20,25 21:2,4 21:11,14,14 22:7 22:11,14,22,25 23:3,8,11,16,19 23:23 24:7,11 26:2,3,6 27:5 30:1 31:2 47:4,6 48:24 51:10,12,14,18,21 51:25 52:3,6,8,13 52:19 53:10,22,25 54:5,8,11,17,25 55:4,7 56:1,3,4,15 56:18 59:3,10,16 60:19,23 61:5,8 61:12,24 62:9,13 62:16,19 65:13,24 69:8 72:14 meetings 17:9,12 18:3,20 19:5,19 20:2,8,11 23:24 51:6 64:21,22 65:4,17 67:2	68:10 member 11:3,5,7 11:18 12:1 26:19 27:1,17 28:11 29:12 30:7,14,16 30:20 33:15 34:10 35:20,22 64:21 70:15 72:11 members 26:22,22 35:16 41:6 42:7 53:19,20 65:12,13 70:3 72:10,16,20 73:2,7 membership 38:24 64:22 67:2,5,8 68:10 69:25 70:9 70:12,18,21,24 71:2,5 mention 48:8 54:4 63:21 mentioned 28:5 36:22 37:14 71:18 message 19:22,24 met 9:21 29:18 Michael 23:15,18 61:10,14 microscopic 14:25 mind 42:6 44:2 minutes 51:11,11 missing 53:15 mixed 14:12,13 15:14 moment 43:12 61:22 month 19:8,10 mood 69:24,25 Move 40:1,13 50:17 58:10,23 moved 12:19 multiple 53:18,20	needed 30:14 36:11 42:11,16 44:3,7 44:12 56:18 58:4 62:22 never 63:2,4 65:15 New 1:24 night 26:5 28:7 34:8 36:17 44:8 62:11 62:23 69:23 71:8 71:19 nominate 34:10 52:15 53:1 55:10 55:20 56:19 nominated 24:24 34:11 42:9 44:4,5 44:7,13 52:17 53:4 55:17 62:23 nominating 55:22 nomination 4:12 14:23 26:3,20,23 28:12 31:6 36:5 36:16,19 43:4 47:6 48:24 49:2 49:25 50:7,14 51:6,14,18,21,25 52:2 53:10 54:8 56:11,15,18 59:3 64:11,17 67:3,11 67:24 68:9 69:23 73:1 nominations 16:18 20:20 21:13 26:2 53:24 54:11 56:1 60:23 61:8 nominator 41:24 42:11,13,19,23 43:23 44:1 nominee 54:25 55:23 63:18,23 nominees 22:21 52:9,16 55:3 non-Local 50:1 normally 65:12 notary 1:19 75:9,22 75:23 76:18 noted 75:12 76:8 78:10 notes 75:13 notified 72:11 November 59:10 64:23 65:7,10,21 68:8 number 6:14,22 73:2,9	O'NEILL 3:7 object 49:3 69:10 69:14 73:11 objection 39:25 40:9 49:12 50:16 58:9,22 66:15 68:12 69:17 71:12 objections 6:9 40:17 75:12 observe 68:20,23 69:1,4 observed 69:25 73:2 occasion 15:23 occurrence 73:14 occurring 67:12 office 1:15 2:3 4:12 6:24 24:13 25:14 26:18,20,25 27:1 27:6,7,9 30:6,10 30:15,16 32:1,4 35:5,6,24 41:8 43:5 45:7 47:7 48:22 52:14 53:8 53:10 55:18 57:4 71:24 officer 3:4 8:9 16:14 21:13 57:9 officers 24:21 50:11,15 offices 53:12 Oh 32:3 53:9 Okay 8:14 9:5,10,17 9:22 13:24 14:9 16:3,4,6 19:18 20:23 22:6 25:4 27:8 33:1 34:13 35:12 38:18 39:9 41:1 42:18 43:16 45:20 52:19,25 61:25 64:6 65:16 73:16 once 16:1 19:8 35:21 47:24 ones 65:20 open 67:20 opened 31:11 opinion 17:13 18:6 34:21 40:4,14 50:21 60:21 67:6 67:9 opposed 15:16 46:8 order 44:13 orig 46:10 original 10:4 76:20
--	---	---	--	--

<p>originally 46:11 outdoors 22:17,19 outside 13:20 73:3 outsoken 30:3 59:11,12 over-amount 47:5 overseeing 38:10 38:15,16</p> <hr/> <p>P</p> <p>p.m 1:18 7:4 26:4,9 26:11,14 29:10 73:22,24 PAGE 4:3,10 77:4 78:1 PAGES 5:4,7,10,13 paperwork 28:13 paragraph 64:20 Pardon 61:18 parking 22:15 70:5 part 17:8 28:9 34:12 56:5,8 particular 20:13,15 particularly 59:18 passed 13:9 passing 13:9 pay 62:11 PC 2:10 pen 32:23 33:1 40:24 Pennsylvania 1:1 1:16,20,23 2:4,6 2:12,17 6:21,25 7:2 75:3,10 people 18:10 19:14 19:19,23 25:15 28:5 41:12,14 47:1,5 48:22 53:12 54:16 57:18 57:21 58:7,16 71:20,25 72:6,9 percentage 14:14 15:15,19 18:24 period 13:10 permitted 49:24,24 person 27:16 28:3 37:25 46:11 54:12 personal 20:16 50:20 personally 39:5 40:3 57:10 58:14 59:16 60:1 Philadelphia 1:16 1:23 2:6,12,17 7:1 46:25 75:5 phone 19:22 26:18</p>	<p>27:19 30:12 33:22 34:1,9 62:12,16 62:19 phones 28:4 physical 27:5 54:1 physically 38:23 picked 38:24 Pike 1:24 Plaintiff 1:6 2:8 6:17 Plaintiff's 43:6 planning 38:17,19 38:21 pleading 65:2 please 7:8 30:18 40:21 57:14,16 Podraza 2:10 4:7 6:1 7:14,14 9:23 14:17,21 15:7 39:25 40:9,12,19 43:9 49:3,12,16 50:16 58:9,21 60:4 62:25 63:6 63:10 64:9 66:18 67:1 68:14 69:16 69:18 71:15 72:24 72:25 73:15 point 13:6 14:8 20:6 33:8,17,23 41:16 45:3 52:8 58:7,15 67:15 70:7 portions 36:10 position 11:12,16 12:10,16 13:7 15:17 24:25 54:25 positive 22:5 70:2 possibly 25:23 28:3 38:5,7 50:21 51:12 53:20 post 66:22 potential 22:21 potentially 25:5,8 26:10 pre 66:21 preceding 75:14 prepare 9:19 10:2 present 3:1,5 24:3 41:1 51:24 55:3 56:18 60:20 73:3 73:8 President 14:1 19:15 31:13 33:14 37:22 38:9,13 39:3 51:5 52:21 53:16,17 President's 30:15</p>	<p>pretty 26:14 60:18 pride 58:7,15 printed 25:5 prior 13:14 24:4,7 25:21 26:6 29:21 56:3,4,15 57:17 59:3 60:9,23 61:8 67:3 73:1 probably 33:20 procedure 63:7,11 proceed 40:21 proceeding 14:24 67:3,11 68:9 proceedings 73:1 75:11 process 16:18 25:2 34:12 63:19 64:11 64:17 67:25 68:3 68:6 Professional 1:19 75:9,21 promptly 76:21 propounded 78:9 protect 40:20 protest 16:22 protocols 46:24 provide 10:12 36:16,19 provided 16:12,17 16:21 17:1,5 76:12,17 providing 14:11 51:8 provoking 66:4 public 1:19 75:9,22 76:18 purely 14:10,15 15:16 purpose 28:15 51:7 52:3,23 purposes 43:7 47:9 47:10,12 purview 35:8,14 put 20:6 32:9,13 44:24 46:18 putting 15:19</p> <hr/> <p>Q</p> <p>question 6:10 9:3,5 9:7,11,16 15:11 18:2 39:12 52:25 59:22 72:4 questioned 64:24 questioning 15:1 69:11,15 questions 5:12 9:1</p>	<p>10:19,24 15:4 34:6 43:14 44:17 64:7 68:4,5 72:22 78:9 quite 17:15 56:24 quote 16:2</p> <hr/> <p>R</p> <p>R 2:10 75:1 raise 67:23 ran 57:1,8,18 read 6:2 15:25 64:20 65:5 76:2,3 78:6 reading 52:5 ready 43:15 really 14:3 15:21 20:5,5 62:11 reason 10:11 20:13 50:13 76:5,9 77:4 reasons 54:18 recall 8:13 10:17 21:6,10,16,20,23 21:25 22:1,23 23:1,2,4,9,12,17 23:20,24 24:2,3,6 25:9,10 26:2 27:11,15,18,19,21 30:8,19,22 36:13 36:15,21 37:4,7 39:13 41:12 42:18 45:10 46:6,13,14 46:15,17 48:17 51:16 52:2,4,5,11 52:22,24 53:12 54:9,16,20,24 55:6,9 56:13,14 57:8,10,17,21,25 59:20 60:11 61:11 61:13 62:1,12,18 62:20 63:24 65:11 68:1 72:1,5,6,8 receive 76:22 received 21:7 26:18 30:12 34:10,19 recognize 43:16 recollection 20:21 22:7,10 29:20 37:8,10 58:2 62:15 record 7:4 8:23 9:1 9:15 29:6 40:20 73:21 Recording 53:17 refer 15:23 16:3,8 reference 45:16</p>	<p>REFERENCED 4:11 reflects 66:22 regarding 16:17 17:5,23 60:9,13 61:6,10 64:1 67:24 68:6 regards 54:14 Registered 75:8,21 regular 73:13 regulations 54:14 56:21 relating 16:13 17:1 relation 55:25 relationship 14:24 relaxed 67:20 relevance 66:16 relevant 69:11,15 remember 30:4 33:5,6 35:20 45:15 51:10 55:18 57:6,19 65:22 repeat 15:10 38:20 repeating 18:8 reporter 1:19 7:6 8:23 10:21 11:1 32:2 47:11,14 56:6,9 61:18 63:8 63:12 69:12 72:17 75:9,22 Reporters 1:22 Reporting 1:22 8:8 15:24 represent 6:1 representative 17:20 representing 7:16 7:19 request 16:6 REQUESTS 5:6 require 76:21 requirement 46:25 reserve 40:17 reserved 6:10 retaliation 66:24 Return 76:20 review 10:1,5,7 41:21 48:11 reviewed 10:3 66:10 right 29:10 33:25 34:3 36:24 37:11 37:19 40:10 57:24 62:6 67:12 68:15 76:3 Rights 3:4</p>
---	---	---	--	---

road 14:22	72:15,19	speculate 45:22	surprised 63:17	64:1 66:7,18,21
Robin 1:18 7:7 75:8	September 1:17 7:3	speculation 40:1	sworn 7:10,22	73:16
75:20	73:22 77:2 78:6	40:13 50:17 58:10		third-party 35:7
Rocks 57:23	Sergeant 45:17,20	58:23	T	41:7
Rodney 28:22 45:5	46:1	split 47:7	T 2:16 75:1,1	thirty 76:22
role 12:13,13 13:11	service 27:1	spoke 8:4 39:10	table 28:10,20 29:3	thirty-seven 12:6
14:6,9,12,13	serviced 41:6	Spring 22:16 34:20	33:13,18,24,24	thought 44:12 59:1
15:13,22 16:12,16	set 19:7 28:10,15	34:24 70:6	46:10	63:20
16:20,25 17:4	28:17 47:3	square 46:25 47:2	tables 28:14,17	threats 71:5
21:10,19 24:19,20	setup 38:24	SS 75:4	41:2	three 33:4
24:23 25:1,18,21	sheet 76:6,9,10,14	Staff 3:8	take 6:3 8:23 11:18	time 6:11 7:3 11:19
25:24 38:9,12,17	76:20 77:1 78:10	stamped 4:12 43:5	12:7,15 13:6	12:2,3,23 13:1,10
38:21 46:4 50:1	shirts 71:25 72:3,7	standing 19:9	20:18 31:1,4 34:7	14:7 20:23 22:20
room 27:5 33:13	shortly 26:4	32:20 41:13,15	36:1 73:7	24:9 26:2,8,17
54:1 59:19 60:22	shoulder 21:7 24:4	start 12:5 60:1,2	taken 1:14 8:14	28:25 29:22 30:5
rough 15:14	show 33:14 50:10	started 12:10,12	10:8 27:22,24	30:6,20 31:21
roughly 14:14	50:14	26:3	28:2 75:13 77:2	33:6 34:19 36:20
rude 65:17 68:21	shrinking 66:20	stated 34:10	talk 14:23 33:4	41:2,19,21 42:20
ruled 69:10,14	side 41:7,8	statement 34:17	Tara 1:13 4:4 6:15	43:20 44:20 45:8
rules 50:6,8 54:14	sign 6:2 76:10,11	STATEMENTS 5:9	7:21 64:10 73:20	46:24 56:24 57:1
56:21 64:15 76:21	76:15,16	States 1:1,5,15 2:3	77:2 78:18	57:3,8 71:16
run 24:13 26:20	signature 76:19	2:5 6:20,24	tasked 38:13	timid 67:4
37:6 40:7 53:13	78:1,17	staying 25:25	team 58:19	Timothy 23:7,10
58:8 65:1	signing 76:13	step 33:18	telephone 3:5	60:25 61:2
run-down 8:21	simply 35:23,23	stepped 33:12	tell 7:22 13:25	title 45:13,19
running 26:24 28:5	Sirod 3:10 7:5	STIPULATIONS 5:9	17:18 28:6 29:24	today 7:16 9:20
37:5 39:23 46:11	sites 17:23	stood 55:19	36:10 37:1 39:11	10:2,13
47:5 48:22	slightly 30:2	Street 1:16,23 2:5	39:14 42:15,22	Today's 7:2
	sling 22:12	2:11,16 7:1 22:16	48:2 59:7 60:16	told 30:13 33:16
S	Slip 4:12 43:4	34:20,24	Temple 13:8	35:17
saying 37:9 42:18	small 14:3 25:6,14	stress 70:11 71:10	tend 14:7	tone 59:25
54:20 59:15	25:23 58:2 70:4	strictly 12:12 25:3	tense 71:9	track 15:21
says 64:21	socializing 70:4	strike 40:1,13 50:18	tension 70:8	traffic 26:25
scene 58:3	Solicitor 3:4	58:11,23	term 17:13,14 18:8	training 35:6
schedule 51:12	somebody 35:23	strong 33:21	27:7 45:16	transcript 6:4 75:15
scheduled 26:21	39:22 56:14	subject 19:17 21:4	terminology 27:7	78:6
sealing 6:8	someone's 51:13	59:20 76:13	territories 20:4	transcription 78:8
second 33:24	sorry 32:3 38:20	submitted 32:7	territory 17:21	transcripts 10:7
Secretary 1:4 7:13	56:7 69:12	44:15 54:8,21	testified 7:23	Treasurer 53:17
8:5,6 53:17 64:2	sort 8:21 13:17	55:21 62:21 63:22	testimony 10:12	trial 6:11 40:18
Secretary's 64:19	14:11,14,15 15:14	substance 76:4,8	43:22 76:12	TRIGIANI 2:15
section 42:2,3	15:14,15 16:8	Suite 1:16,23 2:6,11	text 19:22 62:9	truck 70:3
see 11:25 31:8,22	17:11 19:1 20:23	2:17 7:1	Thank 9:6 11:1 39:9	trucks 70:2 71:23
33:11,15 36:23	22:7 38:10 71:18	SUMMIT 1:22	43:9,10 56:9	true 78:7
37:1,5,15 39:15	sounds 45:18	support 5:1 14:11	63:12 64:8 71:16	truth 7:22
39:19,23 50:7	South 2:11	40:8	72:23 73:15	truthful 10:12
51:20 62:8	space 76:12,17	suppose 19:17	Thanks 47:14	trying 22:6
seeing 62:18	speak 10:17 42:16	72:11	thing 18:3 25:17	Tuesday 19:10
seek 26:23 28:12	58:13 60:24 67:7	supposed 28:6,21	58:3	68:19
seeking 26:19 68:4	speaking 21:10	28:23 29:3	things 8:21 14:7,8	turned 47:24
Senior 3:3	67:4,8	sure 12:11 14:1	20:1 25:6,9,11	two 53:21
sense 12:9 22:6	specific 20:6 37:8	22:10 32:20 34:5	33:5 38:1,4,25	type 18:9 25:23
58:18 70:8,11,14	37:10	39:2 48:6 49:8	39:3,4 44:12	58:3
70:17,20,23 71:1	specifically 25:9,10	53:14 57:14 65:7	think 22:4 26:13,25	types 20:1
71:4	36:13,15 41:5	surgery 21:7 24:5	50:2 57:3,24	typically 16:8 72:3
sent 19:21 38:24	65:21	surprise 35:11	58:16 63:1,20	

U U.S 1:14 2:3 3:5 7:12 uncomfortable 59:13,17,24 60:22 66:8,12 67:15 69:8,20 understand 9:7 11:21 18:11 20:19 26:1 35:2 36:4 39:22 40:6,23 43:22 56:23 understanding 12:25 27:2 29:9 31:14 32:16 34:13 38:14 39:18 42:10 44:11 46:20,22 47:18 48:18,25 49:10,19,23 50:6 50:9,24 54:10 56:17,20 understood 9:17 43:23 46:9 unease 71:1 uneasy 71:11 Union 3:8 13:23 14:6,25 15:22 16:9,11,16,20,25 17:4 26:5,16 27:3 28:11 30:6,10 32:17 34:8,14 35:16 37:22 38:3 38:25 39:8 47:3 59:10,15 64:5,25 65:1 United 1:1,5,15 2:3 2:5 6:19,24 unopposed 58:19 Unrelated 44:6 unusual 73:6 use 15:23 17:15 18:8 27:4,7 49:18 Usually 19:21	videotaped 1:13 6:14 73:20 view 14:25 violated 8:7 violet 66:20 vocal 30:2 vocalness 30:3 vs 1:7 77:3	73:13,25 76:1,16 76:16,17,18 WITNESSED 78:21 word 33:21 49:18 words 55:18 work 8:21 13:14 14:11 15:16,16 16:9,11 37:23 workday 56:2 workers 1:9 6:18 28:20 29:3 working 11:22 12:5 12:12 57:4 worried 71:10 worry 41:25 42:5 70:20 wouldn't 10:11 15:18 18:6 20:12 20:14 35:13,14 38:16 39:1 45:22 53:2 63:6,10 73:6 writing 34:1 written 41:19 wtjosem@cjtlaw.... 2:18 www.summitrep... 1:25	19102 1:23 19106 2:17 7:2 19106-4476 2:6 19107 2:12 1959 8:9 15:24	6 6 5:10 609 1:24 609-3170 2:12 615 1:15 2:5 6:25 64,72 4:7
V vantage 67:15 vary 18:16 versus 6:17 Vice 53:17 video 7:4 8:22 73:21 videographer 3:11 6:13 7:6 73:18 Videographers 1:22 videotape 6:3	W waived 6:9 walked 32:19 Walker 28:22 45:5 45:11,23 46:4,8 46:13,16,19 47:25 48:2,7,9,15,19 49:1,24 50:10,13 50:25 51:8 Walker's 45:19 Walnut 1:23 Walsh 1:4 77:3 want 12:8 37:6 39:23 45:22 55:17 wanted 26:22 28:11 34:10 37:1,4 42:8 45:25 48:6 wanting 21:24 40:7 wants 72:11 warm 22:11 wasn't 21:8 42:19 way 6:5 22:8 23:5,6 23:13,21 37:12,13 40:20,20 57:3 we'll 6:2 15:5 we're 14:23 20:24 52:15 73:17 we've 40:16 wearing 71:25 72:7 Wednesday 1:17 week 9:21 weeks 24:4 Welsh 6:16 went 27:1 29:2 30:5 30:15 33:13,19,24 36:2 45:6 68:17 weren't 34:14,20,21 WILLIAM 2:16 wishes 53:3 witness 4:3 6:2 7:10,16 15:10 32:3 40:3,14 43:10 47:15 49:6 49:14,17 50:20 56:7 58:13,25 60:5 63:4,13 64:8 71:14 72:19,23	X X 4:1	2 2:10 1:18 2:13 7:4 20 12:6 200 2:17 65:14 71:22 2001 12:7 2006 12:14,15 13:4 2013 11:8,17,23 13:9 2019 59:9 64:23 65:7,21 68:8 2020 8:9 10:4 16:13 16:18,22 20:19,20 20:25 23:25 24:19 24:21 26:1 60:24 61:5,9,12,24 64:1 64:12,17,23,23 65:7,8,11,11 66:21 67:3,11 68:9 69:23 71:8 72:7 73:7 2021 1:17 7:3 60:19 68:18 73:22 77:2 78:7 21-CV-96 1:10 6:22 215 1:24 2:7,12,18 24 64:20 250 71:22	7 7 26:4 7:00 56:1 735-9099 2:18
	0 08037 1:24	Y Yeah 26:15 31:3 57:7,16 year 12:4 57:19 years 12:6	3 3:26 73:22,24 325 2:16	8 8 1:17 77:2 78:6 8,71 4:6 800 1:24 861-8492 2:7 8th 7:3 20:25 21:11 22:10 23:23 24:11 61:24 73:22
	1 1053372 75:23 1250 1:16 2:6 7:1 150 65:14 1500 1:23 2:11 16 11:23 1610 1:23 17 11:23 1701 27:6 28:1 34:18 35:3 45:7 1719 22:16 26:19 27:2,6 34:20,24 35:5,21 36:2 19 65:10	Z	4 4:30 26:10,12 29:2 34:19 4:45 26:10,12 29:2 424 1:24 43 4:12 447-8648 1:24	9 9 67:11 69:23 73:7 98 1:8 3:8 6:18 7:15 8:7 11:3,6,8,10,13 11:19,22 12:5,10 12:12,18 13:14 16:13,17,21 17:1 17:5,21 18:4 24:13 26:21 45:12 45:13 50:1 57:9 58:8 77:3 98's 64:22 98_00298 4:13 43:6 985-2400 1:24 9th 20:20 21:13 25:25 71:8
			5 5 26:9,11,14 29:10 42:9 5:00 35:18 42:1,8 42:25 48:7 63:15 64:5 567-3315 1:24	

Ex. H

Notified Meeting for Nominations of Officers

Tuesday, June 09, 2020

7:00 PM

Pledge of Allegiance

Roll Call of Officers

- All Officers were present

President Burrows asked for a motion which was seconded and approved to disburse with the normal order of business to address the purpose of the Notification (Notice of Nominations and Election Board of IBEW Local 98).

President – Brian Burrows

- Nominated by Bryan Burrows
- Seconded by Michael Mascuilli

Vice President – Tim Browne

- Nominated by James Reppert
- Seconded by George Rodney Walker

Recording Secretary – Michael Mascuilli

- Nominated by Gabrielle Edwards
- Seconded by Bryan Burrows

Treasurer – Todd Neilson

- Nominated by Ed Neilson
- Seconded by Robert Henon

Business Manager/Financial Secretary – John Dougherty

- Nominated by Tara Chupka
- Seconded Tim Browne

Executive Board (1) – Robert Cresswell

- Nominated by Zach Gneiwoz
- Seconded by James Foy

Executive Board (2) – Robert Gormley

- Nominated by Shawn Gormley
- Seconded by Robert Cresswell

Executive Board (3) – Nick Gummel

- Nominated by Michael Gummel
- Seconded by James Snyder

Executive Board (4) – James Foy

- Nominated by Michael Gillespie
- Seconded by Nick Gummel

Executive Board (5) – James Snyder

- Nominated by Anthony Sabo
- Seconded by Robert Gormley

Examining Board (1) – Robert Thompson

- Nominated by Steve Moscinski
- Seconded by Kirk Henon

Examining Board (2) – Kirk Henon

- Nominated by Robert Henon
- Seconded by Robert Thompson

Examining Board (3) – Nehemiah Devine

- Nominated by George Rodney Walker
- Seconded by John Dougherty

President Burrows announced that there was an exact number of Candidates and that all Offices were closed. President Burrows then asked Recording Secretary Mascuilli to cast the Ballots in favor of the Candidates.

A motion was made to adjourn, the motion was seconded, and the meeting ended at 7:21 PM.

Respectfully submitted,

Michael Mascuilli
Recording Secretary

Ex. I



International Brotherhood of Electrical Workers



Michael D. Welsh, International Vice President
500 CHERRINGTON PARKWAY, SUITE 325
CORAOPOLIS, PA 15108
(412) 269-4963 • Fax (412) 269-4964

Lonnie R. Stephenson, International President
Kenneth W. Cooper, International Secretary-Treasurer

New York

New Jersey

Pennsylvania

Delaware

July 31, 2020

By Certified Mail

Charles Battle
2548 Brooke Road
Pennsburg, PA 18073

Dear Brother Battle:

This is in response to your letter dated June 16, 2020, in which you protest the election of officers for IBEW Local Union #98. Nominations for officers of Local #98 occurred on June 9, 2020. Because there was no more than one nominee for each office, the election scheduled for July 11, 2020, was not held, and those nominated were deemed elected.

In accordance with the IBEW U.S. Local Union Election Guide, p.7, "[a]ny member, including a defeated candidate, may challenge an election by filing a written protest with the appropriate International Vice President . . . within 30 days of the certification of the election results." Your June 16, 2020, letter was received by my office on June 22, 2020, and is a timely protest.

As you know, I assigned International Representative Randy Kieffer to investigate your protest. He has reported to me, and for the reasons set forth below, I deny your protest. Your protest raises six issues, each of which is addressed below:

1) You allege that Local #98's nomination notice was unlawfully vague and did not provide specifics with respect to seconding or nominating. You state that the Department of Labor's (DOL) guidelines state that whether a nomination is required to be seconded must be included in the notice.

DOL's regulations, rather than its guidelines, are binding. Those regulations state that the notice for nominations must be "reasonably calculated to inform members of the offices to be filled in the election as well as the time, place, and form for submitting nominations." 29 CFR § 452.56. Local# 98's notice unquestionably sets forth the offices to be elected, and the time and place for nominations. It also clearly stated that nominees would have to submit an acknowledgement of their willingness to be nominated, and when the acknowledgement needed to be received. I read your protest to contend that the notice needed to do more and was required specifically to set forth that you could self-nominate. I disagree.

Charles Battle
July 31, 2020
Page 2

First, the IBEW U.S. Local Union Election Guide does not require that the notice for nominations state that a member can self-nominate. Indeed, the Election Guide contains a model notice, which does not state whether a second is required, or whether a member can self-nominate.

Second, your contention regarding the guidance given in DOL's election guide is mistaken. That guidance states that the notice "should" include "details such as whether a nomination must be seconded . . . See Figure 3 – Nomination Notice." DOL's own model nomination notice that is referred to in the quote upon which you rely – " (Figure 3)" – does not state anything about whether a second is required. Therefore, at best, the guidance means that where a second is, in fact, required, that requirement should be set forth in the notice. But where, as here, a second is not required, and a member can self-nominate, those details need not be included in the notice.

2) You contend that Local #98's form required you to list a member who would nominate you, and another member who would second. Your protest states, "at this point it was clear to me that the rules had changed and that this was a pure attempt to intimidate me not to follow through with running for office."

First, if as you contend, "the rules had changed," then you can hardly contend that the notice was inadequate because you must have thought that you could self-nominate. Second, the form did not require a second. In fact, there is no place on the form to list anyone who would be seconding the nomination. Instead, the form sought the identity of the nominator and the candidate to be nominated. Although there are separate spaces for each, nowhere does the form indicate that the nominator and candidate have to be different people. Instead, if you wanted to self-nominate, you could have listed yourself in both spaces. You indicated to International Representative Kieffer that, although you were pretty sure you could nominate yourself, you questioned your own judgment. Then, rather than ask someone for clarification, you took the paperwork, went to your car to contemplate what to do, and then left. You did not return the paperwork, nor attend the meeting. Nor did you ask for clarification from anyone. If you had any questions about the forms, there were Local #98 officials present to answer them. But, instead of asking any questions, you simply left.

3) You assert that the sign that Local #98 placed on its door on the day of nominations, "was a ploy . . . to intimidate [you]" because it said that you would need three people present. The sign did not say that. Instead, it stated that only the candidate, nominator and member seconding the nomination would be allowed in. That doesn't mean that a candidate must have had a nominator and a second to enter, but rather only that all three types of individuals – and only those – would be admitted. Again, if you had any question whether you could nominate yourself, you could have inquired. But you chose not to do so and left.

Charles Battle

July 31, 2020

Page 3

4) You also contend that you should have been able to see who had filled out a form seeking office. You claim that if it had been an "in-person election," you would have been able to see who else was running. Presumably, you mean that if the nominations were in person, you would have been able to see who else had been nominated.

The nominations were conducted in person. If you had filled out the form, you would have been given admission to the meeting, and at the meeting you could have seen who was nominated, no differently than at any other meeting. Here, the only difference is that admission was limited, and candidates had to – consistent with the notice – complete an acknowledgement indicating a willingness to run in advance so Local #98 could control the size of the meeting in light of the COVID-19 crisis and City of Philadelphia rules.

5) You also claim that the member who was going to nominate you was intimidated by Local #98. That member, however, would not speak with International Representative Kieffer, and therefore, this allegation is without evidence. At your request, Representative Kieffer did speak to a member who said that he had contemplated running for office but had decided not to do so. That member said that he had considered running on his own, not as a part of a ticket, and did not assist you with your campaign. He also stated that he was not part of your protest, did not want to file his own, and had made his own personal decision not to run.

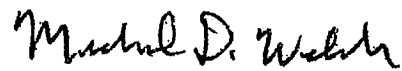
6) Finally, you allege that Local #98 business agent Bob Bark tried to intimidate you into not running, and when you thought about Brother Bark's actions, you left Local #98 on the day of nominations. The investigation showed that Brother Bark and you were, at one-point, personal friends for years. The first time Brother Bark came to your house, the two of you went and had drinks together. During that time together, Brother Bark tried to understand why you had become upset at recent general membership meetings. There is no evidence that Brother Bark tried to intimidate you into not running during that encounter. Subsequently, on another occasion, Brother Bark came to your house with Brother Rich Kee. At one point in the past, you invited Brothers Bark and Kee to your home for Thanksgiving dinner, and thus, you clearly knew Brother Kee. Regardless, when Brothers Bark and Kee came to your home to speak with you, you became angry and directed them to leave. They did so, and I do not find that either Brother Bark or Brother Kee came to your house to intimidate you into not running for office.

Charles Battle
July 31, 2020
Page 4

Accordingly, for the reasons set forth above, I am denying your election protest. Pursuant to the IBEW U.S. Local Union Election Guide, this is a final internal union decision.

Best wishes.

Fraternally,

A handwritten signature in black ink that reads "Michael D. Welsh". The signature is written in a cursive, slightly slanted style.

Michael D Welsh
International Vice President

MDW:jm

cc: Randy Kieffer, International Representative

Ex. J

1
2 IN THE UNITED STATES DISTRICT
3 FOR THE EASTERN DISTRICT COURT OF PENNSYLVANIA
4 CIVIL ACTION NO. 2:21-CV-00096

-----x

5 MARTIN J. WALSH, SECRETARY OF LABOR,
6 UNITES STATES DEPARTMENT OF LABOR,
7 Plaintiff,

8 - against -

9 LOCAL 98, INTERNATIONAL BROTHERHOOD OF
10 ELECTRICAL WORKERS,

11 Defendant.

-----x

12 One South Broad Street
13 Philadelphia, Pennsylvania

14 August 12, 2021

15 3:42 p.m.

16 VIDEOTAPED DEPOSITION of CHARLES
17 BATTLE, held at the above-entitled time and
18 place, taken before Carolyn Crescio, a
19 Professional Shorthand Reporter and Notary
20 Public of the State of Pennsylvania.

21 * * *

<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 HAINES AND ASSOCIATES, ESQ. Attorneys for the Witness 1339 Chestnut Street 5 5th Floor Philadelphia, Pennsylvania 19107 6 BY: CLIFFORD HAINES, ESQ. 7 8 9 UNITED STATES ATTORNEY'S OFFICE Attorneys for Plaintiff 615 Chestnut Street 10 Suite 1250 Philadelphia, Pennsylvania 19106 11 BY: LAUREN E. DE BRUICKER, ESQ. 12 13 LAMB MC ERLANE, PC Attorneys for Defendant One South Broad Street 14 Suite 1500 Philadelphia, Pennsylvania 19107 15 BY: JOSEPH R. PODRAZA, ESQ. -and- 16 JOEL L. FRANK, ESQ. -and- 17 WILLIAM TRASK, ESQ. 18 19 ALSO PRESENT: 20 Daniel Grbich, Videographer 21 Anna Laura Bennett, Esq., DOL, (via phone) 22 John Jack O'Neill, ESQ. IBEW 98 23 John Dougherty 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 Crescio from the firm Veritext. I'm 3 not authorized to administer an 4 oath, nor am I related to any party 5 in this action, nor financially 6 interested in the outcome. 7 Counsel, please state your 8 appearance and affiliations for the 9 record. 10 MS. DeBRUICKER: Lauren 11 DeBruicker, Assistant United States 12 Attorney for the Secretary of Labor. 13 MR. PODRAZA: And Joe Podraza on 14 behalf of the defendant, Local 98 15 IBEW. 16 MR. HAINES: Clifford Haines, 17 personal counsel to Mr. Battle, the 18 witness. 19 THE VIDEOGRAPHER: Will the court 20 reporter please swear in the 21 witness. 22 C H A R L E S B A T T L E , the witness herein, 23 after having been first duly sworn by a Notary 24 Public of the State of Pennsylvania, was examined 25 and testified as follows:</p>
<p style="text-align: right;">Page 3</p> <p>1 2 THE VIDEOGRAPHER: Good 3 afternoon. We are going on the 4 record at 3:42 p.m. on August 12th, 5 2021. Please note that the 6 microphones are sensitive and may 7 pick up whispering, private 8 conversations and cellular 9 interference. Please turn off all 10 phones cell and place them away from 11 the microphone as they can interfere 12 with the deposition audio. 13 This is media unit Number 1 of 14 the video-recorded deposition of 15 Charles Battle, taken in the matter 16 of Walsh v. Local 98, filed in the 17 United States District Court for the 18 Eastern District of Pennsylvania. 19 Civil Action Number 2:21-CV-00096. 20 This deposition is being held, 21 located at One South Broad Street, 22 Philadelphia, Pennsylvania . My 23 name is Daniel Grbich from the firm 24 Veritext and I'm the videographer. 25 The court reporter is Carolyn</p>	<p style="text-align: right;">Page 5</p> <p>1 C. BATTLE 2 BY THE COURT REPORTER: 3 Q. Please state your name for the 4 record. 5 A. Charles Battle. 6 MR. PODRAZA: Before we proceed, 7 Mr. Battle, we just have a couple of 8 housekeeping matters. Counsel for 9 the government, as well as myself, 10 have agreed that all depositions in 11 this matter will be subject to the 12 usual stipulation, which is that all 13 objections are reserved until the 14 time of trial, except to the form of 15 question. Correct, Counsel? 16 MS. DeBRUICKER: Correct. 17 A. Charles Battle. 18 EXAMINATION 19 BY MR. PODRAZA: 20 Q. Okay. Mr. Battle, good afternoon. 21 My name is Joe Podraza, as you heard, and I'm 22 representing Local 98 in the matter of the 23 Department of Labor versus Local 98. 24 You're a witness here today for a deposition. 25 Have you ever been deposed before?</p>

Page 6

1 C. BATTLE

2 A. No.

3 Q. Then why don't we review generally

4 the format of a deposition, so hopefully you

5 will feel comfortable as we proceed forward.

6 Essentially, a deposition is just a

7 question-and-answer format. Myself and opposing

8 counsel will have an opportunity to ask you

9 questions, to which you will supply an answer,

10 unless there's an objection and an instruction

11 for you not to answer. Okay?

12 A. Yes.

13 Q. Very importantly, it's a process

14 where the court reporter is only able to take

15 down one person speaking at a time, so it will

16 be very important that you wait until I complete

17 my question, before you begin to answer, and I,

18 in turn, will do my best to allow you to

19 complete your answer before I proceed with the

20 next question. Okay?

21 A. Sure.

22 Q. If at any time you don't understand

23 the question that I'm posing, please let me know

24 and I'm happy to reframe or rephrase it until

25 you feel comfortable that you can respond to it.

Page 7

1 C. BATTLE

2 All right?

3 A. Yes.

4 Q. Now, this is not a test of

5 endurance. If at any time you need to take a

6 break, restroom, stretch your legs, et cetera,

7 just let me know, and we will be happy to

8 accommodate that request. The one thing I will

9 ask is, if there's a question pending, that you

10 provide the response to the question before we

11 go off record and allow you to do whatever may

12 need to be done. Okay?

13 A. Sure.

14 Q. I take it you're represented today

15 by Mr. Haines; is that correct?

16 A. Yes.

17 Q. All right. Now, is there any reason

18 today why you would not be able to either

19 understand a question I'm posing, assuming that

20 it's understandable, or be able to respond to

21 that question truthfully? And by that I mean,

22 are you under any medications, any substances,

23 anything whatsoever that would impact your

24 ability to understand or answer truthfully?

25 A. No.

Page 8

1 C. BATTLE

2 Q. Prior to being here in this

3 conference room with us today, did you do

4 anything to prepare for your deposition?

5 A. Yes.

6 Q. All right. What did you do?

7 A. Had counsel with my attorney.

8 Q. That's Mr. Haines?

9 A. Yes.

10 Q. And when did you do that?

11 A. Tuesday.

12 Q. Where did the session take place?

13 A. In his office.

14 Q. And approximately how long?

15 A. Two hours.

16 Q. Was any -- let me try English.

17 Was anybody else participating in that

18 session?

19 A. Yes.

20 Q. Who else?

21 A. Lauren DeBruicker.

22 Q. Now, in that session then, tell me

23 the nature of the discussions, what did you talk

24 about --

25 A. My statements. Sorry.

Page 9

1 C. BATTLE

2 Q. That's all right. So your statement

3 that you gave to the Department of Labor?

4 A. Yes.

5 Q. All right. Did you go through your

6 protest letter?

7 A. Yes.

8 Q. Did you go through any other

9 documents besides your Department of Labor

10 statement or the protest letter?

11 A. Yes.

12 Q. What else did you review?

13 A. The international organization's --

14 my statement with the international

15 organization, my rejection letter and a few

16 texts.

17 Q. Was there any discussion about

18 Mr. McConnell's deposition?

19 A. No.

20 Q. No update as to what he was asked or

21 what his responses were?

22 A. No.

23 Q. All right. And was there anything

24 else covered in your prep session?

25 A. No.

<p style="text-align: right;">Page 10</p> <p>1 C. BATTLE</p> <p>2 Q. Then why don't we begin --</p> <p>3 generally, where did you go to high school?</p> <p>4 A. Roxborough.</p> <p>5 Q. Are you native, meaning you were</p> <p>6 born in Philadelphia?</p> <p>7 A. Yes.</p> <p>8 Q. How long have you been associated</p> <p>9 with Local 98?</p> <p>10 A. Thirty-one years.</p> <p>11 Q. Now, for -- I take it then you</p> <p>12 became affiliated around 1991 --</p> <p>13 A. Yes.</p> <p>14 Q. -- with Local 98?</p> <p>15 Were you part of the apprentice program?</p> <p>16 A. Yes.</p> <p>17 Q. All right. So from 1991 to the year</p> <p>18 2020, 30-year period, I'd like to ask you, am I</p> <p>19 correct that you did not hold any positions with</p> <p>20 the union?</p> <p>21 A. You're correct.</p> <p>22 Q. And am I also correct that during</p> <p>23 that 30-year period, you did not run for any</p> <p>24 union office?</p> <p>25 A. No, I did not.</p>	<p style="text-align: right;">Page 12</p> <p>1 C. BATTLE</p> <p>2 Q. Okay. So you never requested -- you</p> <p>3 never made such a request that was turned down</p> <p>4 by the union, correct?</p> <p>5 A. Yes, that is correct.</p> <p>6 Q. So, therefore, the extent of your</p> <p>7 experience as a steward is the six months that</p> <p>8 you just testified about, being in 1998?</p> <p>9 A. Yeah.</p> <p>10 Q. Now, am I also correct that during</p> <p>11 the 30-year period, you did not march with the</p> <p>12 union in any of the St. Patrick's Day parades?</p> <p>13 A. Yeah, that would be correct.</p> <p>14 Q. And am I also correct during that</p> <p>15 30-year period, you did not attend any of the</p> <p>16 union picnics?</p> <p>17 A. That would be correct.</p> <p>18 Q. Would it be fair to say that during</p> <p>19 the 30-year period, you would spend your free</p> <p>20 time on activities that were not union-related?</p> <p>21 A. Ask that one more time.</p> <p>22 Q. Sure. During the 30-year period,</p> <p>23 would it be correct that you spent your free</p> <p>24 time predominantly on activities that were not</p> <p>25 union-related?</p>
<p style="text-align: right;">Page 11</p> <p>1 C. BATTLE</p> <p>2 Q. Okay. Do I also -- strike that.</p> <p>3 Am I also correct that during that 30-year</p> <p>4 period, you did not volunteer to be a union</p> <p>5 steward?</p> <p>6 A. That would be wrong.</p> <p>7 Q. Wrong?</p> <p>8 A. Yeah.</p> <p>9 Q. When did you volunteer?</p> <p>10 A. Hold on. '98, I was a steward.</p> <p>11 Q. Okay. For how long?</p> <p>12 A. Approximately six months.</p> <p>13 Q. Other than that six-month period,</p> <p>14 would I then be correct that you did not</p> <p>15 volunteer to be a union steward?</p> <p>16 A. You don't volunteer to be a steward.</p> <p>17 You're appointed. So no, I was not appointed or</p> <p>18 given the opportunity to be a steward.</p> <p>19 Q. And did you make a request that was</p> <p>20 turned down, that you didn't get an appointment?</p> <p>21 A. You don't request to be a steward.</p> <p>22 Q. I'm asking -- I don't mean to be</p> <p>23 combative, but my question is pretty precise.</p> <p>24 Did you ever request to be a steward?</p> <p>25 A. No one does, so no.</p>	<p style="text-align: right;">Page 13</p> <p>1 C. BATTLE</p> <p>2 A. Yes.</p> <p>3 Q. You're aware of an indictment having</p> <p>4 been filed by the United States Government in</p> <p>5 2019, are you not?</p> <p>6 A. Yes.</p> <p>7 Q. And did you read the indictment?</p> <p>8 MR. HAINES: Objection. I'm</p> <p>9 going to make the assumption that we</p> <p>10 are talking about -- well, let me</p> <p>11 rephrase it. Can you be more</p> <p>12 specific about what indictment</p> <p>13 you're talking about?</p> <p>14 Q. You understand the indictment I'm</p> <p>15 talking about, don't you, sir?</p> <p>16 A. Which --</p> <p>17 MR. HAINES: I think the record</p> <p>18 needs to --</p> <p>19 A. Which one?</p> <p>20 Q. The one in early 2019, where</p> <p>21 representatives associated with the union were</p> <p>22 indicted by the United States Government for</p> <p>23 alleged criminal activity?</p> <p>24 A. Yes.</p> <p>25 Q. And you read that indictment,</p>

<p style="text-align: right;">Page 14</p> <p>1 C. BATTLE</p> <p>2 correct?</p> <p>3 A. Partial.</p> <p>4 Q. Who's Bindu George?</p> <p>5 A. Who is what?</p> <p>6 Q. Bindu George. B-I-N-D-U George,</p> <p>7 G-E-O-R-G-E.</p> <p>8 A. I must have not read that far into</p> <p>9 it.</p> <p>10 Q. Do you know who Bindu George is?</p> <p>11 A. No.</p> <p>12 Q. Did you speak with anybody about the</p> <p>13 indictment, such as Mr. McConnell?</p> <p>14 A. I have spoken to a lot of people.</p> <p>15 So, yes, I have.</p> <p>16 Q. And have you spoken to Mr. Coppinger</p> <p>17 about the indictment?</p> <p>18 A. Michael Coppinger?</p> <p>19 Q. Yes.</p> <p>20 A. Yeah.</p> <p>21 Q. And generally, when did your</p> <p>22 discussions with Mr. McConnell about the</p> <p>23 indictment occur?</p> <p>24 A. I would not be able to give you a</p> <p>25 date.</p>	<p style="text-align: right;">Page 16</p> <p>1 C. BATTLE</p> <p>2 members of the union that were held at your</p> <p>3 house; is that correct?</p> <p>4 A. I would not call it a meeting. I</p> <p>5 would call it a social gathering.</p> <p>6 Q. All right. And at the social</p> <p>7 gatherings, was the indictment discussed?</p> <p>8 A. No.</p> <p>9 Q. All right. How many social</p> <p>10 gatherings did you have in 2020 prior to the</p> <p>11 June 9, 2020, nomination proceeding?</p> <p>12 A. Three.</p> <p>13 Q. And approximately what months did</p> <p>14 they occur?</p> <p>15 A. Sometime in the winter. January</p> <p>16 maybe. I could not tell you. I don't remember.</p> <p>17 Q. So January of 2020. Were all three</p> <p>18 during January of 2020 or --</p> <p>19 A. No.</p> <p>20 Q. -- did they occur differently? All</p> <p>21 right. How about in February?</p> <p>22 A. Yeah, like, I don't recall.</p> <p>23 Q. But the meetings were, at least the</p> <p>24 three you recall, they were held at your house?</p> <p>25 A. Yup, yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 C. BATTLE</p> <p>2 Q. I'm not asking for a specific day.</p> <p>3 Just generally, what years? From 2019 to</p> <p>4 present, have you had ongoing --</p> <p>5 A. I'm going to say 2020.</p> <p>6 Q. 2020?</p> <p>7 MR. HAINES: Let him finish his</p> <p>8 answer -- question, before you --</p> <p>9 Q. And how about Mr. Coppinger?</p> <p>10 A. The same.</p> <p>11 Q. Were those discussions at meetings</p> <p>12 that were held at your house or at</p> <p>13 Mr. McConnell's house or Mr. Coppinger's house?</p> <p>14 MS. DeBRUICKER: Objection.</p> <p>15 Q. You can answer.</p> <p>16 A. Ask it again, please.</p> <p>17 Q. Sure. When you said in 2020 you had</p> <p>18 discussions with Mr. McConnell, Mr. Coppinger</p> <p>19 and perhaps even others about the indictment</p> <p>20 that was entered into in early 2019, did that</p> <p>21 occur at meetings that were held at either your</p> <p>22 house, Mr. Coppinger's house or Mr. McConnell's</p> <p>23 house?</p> <p>24 A. No.</p> <p>25 Q. But there were meetings among</p>	<p style="text-align: right;">Page 17</p> <p>1 C. BATTLE</p> <p>2 Q. Approximately what time to what time</p> <p>3 did the social gatherings begin and end?</p> <p>4 A. Roughly 6 p.m. to 10 p.m.</p> <p>5 Q. Was Mr. McConnell in attendance at</p> <p>6 any of the social gatherings?</p> <p>7 A. No.</p> <p>8 Q. Was Mr. Coppinger?</p> <p>9 A. Yes.</p> <p>10 Q. Was Mr. Borthwick present at any of</p> <p>11 the social gatherings?</p> <p>12 A. Yes.</p> <p>13 Q. Who else?</p> <p>14 A. You want me to give you every name</p> <p>15 that was there, because I don't remember.</p> <p>16 Q. Well, why don't we start with how</p> <p>17 many people attended, to the best of your</p> <p>18 recollection?</p> <p>19 A. Twenty to 30, maybe.</p> <p>20 Q. And how was notification given to</p> <p>21 the members to attend?</p> <p>22 A. They were people from my</p> <p>23 neighborhood.</p> <p>24 Q. How close to the June 9, 2020,</p> <p>25 nomination proceeding was the last social</p>

<p style="text-align: right;">Page 18</p> <p>1 C. BATTLE</p> <p>2 gathering?</p> <p>3 A. I can't recall.</p> <p>4 Q. Was it within weeks or months?</p> <p>5 A. I can't recall.</p> <p>6 Q. Do you have any knowledge of the</p> <p>7 criminal conduct discussed in the indictment?</p> <p>8 A. Do I have knowledge?</p> <p>9 Q. Yeah. Firsthand knowledge of any of</p> <p>10 the indicted representatives of the union --</p> <p>11 A. When you say "firsthand," meaning</p> <p>12 what?</p> <p>13 Q. Meaning that, firsthand. That you</p> <p>14 either observed it or participated in it or have</p> <p>15 direct knowledge of it.</p> <p>16 A. That's a ridiculous question. No.</p> <p>17 That's ridiculous.</p> <p>18 Q. And have you spoken with any</p> <p>19 government officials about the criminal conduct</p> <p>20 discussed in the indictment?</p> <p>21 A. No.</p> <p>22 Q. Sometime in 2020, you received</p> <p>23 notice about the upcoming union elections,</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 20</p> <p>1 C. BATTLE</p> <p>2 couple of questions.</p> <p>3 A. Okay.</p> <p>4 Q. All right. When I asked you whether</p> <p>5 you received notice about the upcoming elections</p> <p>6 in 2020, is what we marked as Battle-1 the</p> <p>7 notice that you received?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And did you read the notice</p> <p>10 when you received it?</p> <p>11 A. Yes.</p> <p>12 Q. And did you receive it around the</p> <p>13 time of it's date, May 18, 2020?</p> <p>14 A. I don't know.</p> <p>15 Q. But certainly before the June 9,</p> <p>16 2020, nomination proceeding, correct --</p> <p>17 A. Yes.</p> <p>18 Q. -- you received it?</p> <p>19 All right. You can put that aside. Thank</p> <p>20 you. Now, I'm told that before the May 2020 notice</p> <p>21 was sent, that at a union meeting, before the</p> <p>22 coronavirus, when the union members would meet in</p> <p>23 person, that you stood up and said you were not</p> <p>24 intending to run for office in the June 2020</p> <p>25 election, or words to that effect; is that true?</p>
<p style="text-align: right;">Page 19</p> <p>1 C. BATTLE</p> <p>2 Q. And the union elections run on a</p> <p>3 cycle of three years, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And the last election then would</p> <p>6 have been in 2017?</p> <p>7 A. If anyone would have ran, yes.</p> <p>8 Q. Well, okay. The last nominating</p> <p>9 proceeding prior to 2020 was in 2017, correct?</p> <p>10 A. Yeah. I guess it would have to be</p> <p>11 nominations, yeah.</p> <p>12 Q. Now, do you remember how you</p> <p>13 received the notice?</p> <p>14 A. Through the mail.</p> <p>15 Q. I'm going to show you what we are</p> <p>16 marking here as Exhibit 1. We are going to call</p> <p>17 it Battle-1. I'm going to ask you if you can</p> <p>18 identify this document for me.</p> <p>19 (Notice is received and marked as</p> <p>20 Battle Exhibit 1 for identification,</p> <p>21 as of this date.)</p> <p>22 Q. All right. Before you is a document</p> <p>23 we marked as Battle-1. Take a moment to review</p> <p>24 the document, and when you feel comfortable that</p> <p>25 you're aware of it, let me know, and I'll have a</p>	<p style="text-align: right;">Page 21</p> <p>1 C. BATTLE</p> <p>2 A. Yes.</p> <p>3 Q. Which union meeting was that?</p> <p>4 A. February of '20.</p> <p>5 Q. And if I'm not mistaken, that was</p> <p>6 the last in-person membership meeting, correct,</p> <p>7 because of the -- before the coronavirus</p> <p>8 precluded gatherings of that type?</p> <p>9 A. That was the last meeting before the</p> <p>10 gathering of the nominations, so that would be</p> <p>11 correct.</p> <p>12 MR. PODRAZA: I would like to</p> <p>13 show you what we are marking as</p> <p>14 Battle-2.</p> <p>15 (Letter to DOL dated June 6, 2020</p> <p>16 is received and marked as Battle</p> <p>17 Exhibit 2 for identification, as of</p> <p>18 this date.)</p> <p>19 A. Okay.</p> <p>20 Q. Okay. Looking at Battle-2, do you</p> <p>21 recognize the document?</p> <p>22 A. Yes.</p> <p>23 Q. What is it?</p> <p>24 A. It's a letter to the DOL.</p> <p>25 Q. From you; is that correct?</p>

<p style="text-align: right;">Page 22</p> <p>1 C. BATTLE</p> <p>2 A. Yes.</p> <p>3 Q. And if I represented to you that the</p> <p>4 this letter, that's been marked as Battle-2, was</p> <p>5 sent on June 6, 2020, before the June 9, 2020,</p> <p>6 nomination proceeding, does that go with your</p> <p>7 recollection?</p> <p>8 A. Yes.</p> <p>9 Q. So it was sent prior to the</p> <p>10 nominating proceeding, correct?</p> <p>11 A. Yes.</p> <p>12 Q. All right. Did you type the letter?</p> <p>13 A. Did I type -- type it myself? No, I</p> <p>14 didn't type it.</p> <p>15 Q. Who did?</p> <p>16 MR. HAINES: Objection. You</p> <p>17 don't have to answer that question.</p> <p>18 MR. PODRAZA: Yes, he does,</p> <p>19 Counsel.</p> <p>20 Q. Who wrote the letter?</p> <p>21 MR. HAINES: No, he doesn't. If</p> <p>22 I tell him he doesn't, he doesn't,</p> <p>23 he doesn't. End of subject. Call</p> <p>24 Judge McHugh.</p> <p>25 MR. PODRAZA: Well, we will put a</p>	<p style="text-align: right;">Page 24</p> <p>1 C. BATTLE</p> <p>2 A. I did.</p> <p>3 Q. So how -- tell me how the letter was</p> <p>4 constructed?</p> <p>5 A. With a lot of help, from a lot of</p> <p>6 people.</p> <p>7 Q. Who were the people that helped you?</p> <p>8 A. I --</p> <p>9 MR. HAINES: Objection.</p> <p>10 Q. Did your counsel help you, sir?</p> <p>11 MR. HAINES: Objection. Don't</p> <p>12 answer the question.</p> <p>13 Q. Did you have representation at that</p> <p>14 time, sir?</p> <p>15 MR. HAINES: What he means when</p> <p>16 he says "representation," is did you</p> <p>17 consult with a lawyer?</p> <p>18 A. No.</p> <p>19 Q. Did you retain a lawyer at that</p> <p>20 time?</p> <p>21 A. No.</p> <p>22 Q. All right. Did you -- just tell me</p> <p>23 then who comes to mind who helped you write this</p> <p>24 letter.</p> <p>25 MR. HAINES: Same objection.</p>
<p style="text-align: right;">Page 23</p> <p>1 C. BATTLE</p> <p>2 record together and we will go</p> <p>3 forward --</p> <p>4 MR. HAINES: That's fine. Judge</p> <p>5 McHugh invites you when there are</p> <p>6 disputes during the deposition to</p> <p>7 call him. I'm asking you to call</p> <p>8 him. Are you refusing to do that?</p> <p>9 MR. PODRAZA: No, let's do it</p> <p>10 then.</p> <p>11 THE VIDEOGRAPHER: The time is</p> <p>12 now 4:06. We are going off the</p> <p>13 video record.</p> <p>14 (A break was taken.)</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 now 4:10. Back on the video record.</p> <p>17 Q. Mr. Battle, looking again at</p> <p>18 Battle-2, are the words that are in this letter,</p> <p>19 that's been marked here as Battle-2, your</p> <p>20 specific words?</p> <p>21 A. I signed off on them, so I'm going</p> <p>22 to say yes.</p> <p>23 Q. That's not my question, though, sir.</p> <p>24 Did you specifically pick these words to be put</p> <p>25 in the letter, or did somebody else?</p>	<p style="text-align: right;">Page 25</p> <p>1 C. BATTLE</p> <p>2 Q. Did you choose the words --</p> <p>3 MR. HAINES: Charles --</p> <p>4 Q. -- in the letter "blind eye"?</p> <p>5 MR. HAINES: Let me get the words</p> <p>6 out of my mouth, so the record is</p> <p>7 clear. I'm objecting to the</p> <p>8 question and instructing my client</p> <p>9 not to answer that.</p> <p>10 And so we are clear, that will be</p> <p>11 the instruction every time you ask</p> <p>12 about somebody who is not,</p> <p>13 otherwise, identified in that case.</p> <p>14 You're not getting what you think</p> <p>15 you're going to get, until Judge</p> <p>16 McHugh orders it.</p> <p>17 Q. Did you chose the words "blind eye"</p> <p>18 that are used in the letter, sir?</p> <p>19 A. I don't understand the question.</p> <p>20 Q. Well, in the letter, there's the</p> <p>21 term "blind eye," that is used in there. Was</p> <p>22 that your words?</p> <p>23 A. I signed the paper.</p> <p>24 Q. That not my question, sir. My</p> <p>25 question is: Did you construct this letter, and</p>

<p style="text-align: right;">Page 26</p> <p>1 C. BATTLE</p> <p>2 put the words "blind eye" in the letter?</p> <p>3 A. I put the word "immediate" in there</p> <p>4 --</p> <p>5 MR. HAINES: Mr. Battle, the</p> <p>6 question calls for a yes-or-no</p> <p>7 answer.</p> <p>8 A. I don't recall.</p> <p>9 Q. Was the letter presented to you to</p> <p>10 read, and then decide whether you agreed with it</p> <p>11 or not?</p> <p>12 A. No.</p> <p>13 Q. Then tell me how the letter was</p> <p>14 constructed. Walk me through that.</p> <p>15 A. Through a lot of talking to friends.</p> <p>16 Q. Well, somebody had to put it on</p> <p>17 paper, correct?</p> <p>18 MR. HAINES: You can answer the</p> <p>19 question.</p> <p>20 A. Yeah. Somebody did put it on paper,</p> <p>21 yes.</p> <p>22 Q. And was it put on paper first, and</p> <p>23 then offered to you to review, or did you</p> <p>24 dictate it, and somebody typed down --</p> <p>25 A. A little bit of both.</p>	<p style="text-align: right;">Page 28</p> <p>1 C. BATTLE</p> <p>2 Q. How is it then that you chose Bindu</p> <p>3 George to send it to, out of all of the other</p> <p>4 members of the Department of Labor?</p> <p>5 A. I don't recall.</p> <p>6 Q. Isn't it a fact, sir, that Clifford</p> <p>7 Haines and his office assisted in the writing of</p> <p>8 this letter?</p> <p>9 MR. HAINES: Objection. Let's</p> <p>10 assume that to be a fact. Why on</p> <p>11 earth would he answer that? That's</p> <p>12 attorney/client privilege. You're</p> <p>13 going nowhere with that question.</p> <p>14 MR. PODRAZA: Well, you can say</p> <p>15 that. That's your basis, sir?</p> <p>16 MR. HAINES: Don't answer the</p> <p>17 question.</p> <p>18 Q. All right. And where in the letter</p> <p>19 do you indicate that others, other than you,</p> <p>20 assisted in the preparation of this letter?</p> <p>21 Show me.</p> <p>22 A. You want me to tell you what page</p> <p>23 and what words they wrote and --</p> <p>24 Q. No. I'm asking you where in the</p> <p>25 letter is it indicated that others, other than</p>
<p style="text-align: right;">Page 27</p> <p>1 C. BATTLE</p> <p>2 Q. -- what you dictated?</p> <p>3 If you turn to the last page of Battle-2, you</p> <p>4 see the courtesy copy, sir?</p> <p>5 A. Yes.</p> <p>6 MR. HAINES: This is D-63?</p> <p>7 MR. PODRAZA: That is correct,</p> <p>8 yes, the last page.</p> <p>9 Q. Do you see the name Bindu George?</p> <p>10 A. Yes.</p> <p>11 Q. All right. You told me before you</p> <p>12 didn't know who Bindu George is?</p> <p>13 A. I have not read this letter in a</p> <p>14 year. I mean, I don't know who Lonnie</p> <p>15 Stephenson is, Kenneth Cooper. I don't know</p> <p>16 them.</p> <p>17 Q. Well, where did you get the names to</p> <p>18 put them in the letter?</p> <p>19 A. I did some research.</p> <p>20 Q. Well, your research, who is Bindu</p> <p>21 George?</p> <p>22 A. He works for the Department of</p> <p>23 Labor.</p> <p>24 Q. What is his position?</p> <p>25 A. I could not tell you. I don't know.</p>	<p style="text-align: right;">Page 29</p> <p>1 C. BATTLE</p> <p>2 you, assisted in preparing and completing this</p> <p>3 letter?</p> <p>4 A. I don't understand the question. I</p> <p>5 just don't understand it.</p> <p>6 Q. Well, as the Department of Labor</p> <p>7 would receive this letter, show me the language</p> <p>8 in here that you used, that they would know that</p> <p>9 someone other than you assisted in preparing</p> <p>10 this letter?</p> <p>11 MR. HAINES: Objection. You want</p> <p>12 him to tell you how the Department</p> <p>13 of Justice -- the Department of</p> <p>14 Labor knew something?</p> <p>15 MR. PODRAZA: Well, I'm asking --</p> <p>16 MR. HAINES: How does that work?</p> <p>17 Q. Where do you reveal in this letter</p> <p>18 that someone other than you did this letter?</p> <p>19 MR. HAINES: Let's agree that it</p> <p>20 doesn't, and move on.</p> <p>21 MR. PODRAZA: I want him to say</p> <p>22 it, Counsel. Your testimony means</p> <p>23 nothing to me.</p> <p>24 MR. HAINES: You're such a</p> <p>25 gentleman.</p>

Page 30

1 C. BATTLE

2 Q. Do you accept your counsel's

3 statement?

4 A. I just don't understand the

5 question.

6 Q. You're the only signator to this

7 letter that's been marked as Battle-2, correct?

8 A. Yeah.

9 Q. All right. And where else in this

10 letter do you indicate to anybody in the

11 Department of Labor that you were assisted in

12 completing this?

13 A. Does your secretary type letters for

14 you?

15 MR. HAINES: Objection to the

16 form of the question.

17 Q. Actually, sir, you're here to answer

18 my questions.

19 A. I'm not answering that question.

20 Q. Your counsel said it's nowhere in

21 the letter. Do you agree with your counsel's

22 representation?

23 A. If that's what he says.

24 Q. And do you agree with that and

25 accept it?

Page 31

1 C. BATTLE

2 A. Maybe.

3 Q. Now, did you pay anybody for their

4 services in assisting in the completion of this

5 letter?

6 A. Like who? Who would I pay?

7 Q. I'm asking you.

8 MR. HAINES: The question is a

9 yes-or-no -- the answer is "yes" or

10 "no."

11 A. No.

12 Q. Before the letter was completed, did

13 you, Clifford Haines or anyone at his office

14 have contact with the Department of Labor?

15 MR. HAINES: Objection. I'm

16 instructing him not to answer that

17 question.

18 MR. PODRAZA: On what basis?

19 MR. HAINES: You want a basis

20 this time? Attorney/client

21 privilege.

22 Q. Prior to this letter being

23 completed, did you, Clifford Haines or anybody

24 from his office have any contact with the

25 Department of Justice?

Page 32

1 C. BATTLE

2 MR. HAINES: Objection. Don't

3 answer that question.

4 MR. PODRAZA: And the basis?

5 MR. HAINES: Same objection.

6 MR. PODRAZA: Attorney/client

7 privilege; is that your basis?

8 MR. HAINES: Yes, that's my

9 basis.

10 Q. Did you have any contact with the

11 Department of Labor prior to the sending of the

12 June 6, 2020, letter?

13 A. No.

14 Q. Did you have any contact with the

15 Department of Justice prior to the sending of

16 the June 6, 2020, letter, that's been marked

17 here as Battle-2?

18 A. No.

19 Q. Once the letter was sent, and prior

20 to the June 9, 2020, nomination proceeding, did

21 you, Cliff Haines or anybody in his office have

22 contact with the Department of Labor?

23 MR. HAINES: Objection. I

24 instruct him not to answer that

25 question on the grounds of

Page 33

1 C. BATTLE

2 attorney/client privilege.

3 Q. Same time period, did you, Clifford

4 Haines or anybody in his office have contact

5 with the Department of Justice?

6 MR. HAINES: Same objection.

7 Don't answer.

8 Q. Did you personally, sir, during that

9 time period have contact with anybody from the

10 Department of Labor?

11 A. No.

12 Q. Did you, sir, personally have

13 contact with anybody during that same time

14 period, with the Department of Justice?

15 A. No.

16 MS. DeBRUICKER: May we pause for

17 a moment. We lost Anna Laura.

18 THE VIDEOGRAPHER: The time is

19 4:14. Going off.

20 (A break was taken.)

21 THE VIDEOGRAPHER: The time is

22 now 4:19. Back on the video record.

23 Q. Sir, I'm going to show you what we

24 are marking here as Battle-3, and I'll ask you

25 if you can identify this document.

<p style="text-align: right;">Page 34</p> <p>1 C. BATTLE</p> <p>2 (Protest letter dated 6/16/20 is</p> <p>3 received and marked as Battle</p> <p>4 Exhibit 3 for identification, as of</p> <p>5 this date.)</p> <p>6 A. This is another statement there.</p> <p>7 Okay.</p> <p>8 Q. Okay?</p> <p>9 A. Yeah.</p> <p>10 Q. What is Battle-3?</p> <p>11 A. This is my letter to Vice President</p> <p>12 Welsh.</p> <p>13 Q. What we would call the protest</p> <p>14 letter; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Did you type this</p> <p>17 letter?</p> <p>18 A. Did I physically type it? No.</p> <p>19 Q. Who did?</p> <p>20 MR. HAINES: Objection. I'm</p> <p>21 instructing him not to answer that</p> <p>22 question.</p> <p>23 MR. PODRAZA: And the legal</p> <p>24 basis?</p> <p>25 Counsel?</p>	<p style="text-align: right;">Page 36</p> <p>1 C. BATTLE</p> <p>2 take anybody? Except to where I</p> <p>3 think you're headed, or your</p> <p>4 client's headed.</p> <p>5 MR. PODRAZA: Are you through,</p> <p>6 Counsel?</p> <p>7 MR. HAINES: You want me to go</p> <p>8 on?</p> <p>9 MR. PODRAZA: I take it he's</p> <p>10 through.</p> <p>11 MR. HAINES: I have nothing more</p> <p>12 to say than that.</p> <p>13 Q. Mr. Battle, did you have assistance</p> <p>14 in completing the letter that's been marked here</p> <p>15 as Battle-3?</p> <p>16 A. Did I have other input on the</p> <p>17 letter?</p> <p>18 Q. Sure.</p> <p>19 A. Yes.</p> <p>20 Q. And was the letter typed at the Law</p> <p>21 Offices of Clifford Haines?</p> <p>22 MR. HAINES: Objection. You</p> <p>23 don't have to answer that question.</p> <p>24 That's privileged information.</p> <p>25 Q. Was the letter typed up and then</p>
<p style="text-align: right;">Page 35</p> <p>1 C. BATTLE</p> <p>2 MR. HAINES: I'm thinking about</p> <p>3 what I want to say.</p> <p>4 My interaction with Local 98 has</p> <p>5 been nothing but experiencing</p> <p>6 harassment and threats and physical</p> <p>7 violence.</p> <p>8 I believe that a lawsuit filed</p> <p>9 against Mr. Battle is a threat and a</p> <p>10 harassment. I'm not going to let</p> <p>11 him or put him in the position where</p> <p>12 he has to identify other individuals</p> <p>13 who will be subjected to the same</p> <p>14 experience.</p> <p>15 MR. PODRAZA: That's your</p> <p>16 objection and the basis?</p> <p>17 MR. HAINES: Pardon me?</p> <p>18 MR. PODRAZA: Is that the basis</p> <p>19 for your objection?</p> <p>20 MR. HAINES: That's the basis for</p> <p>21 the objection -- well, it's not</p> <p>22 relevant. It doesn't matter who</p> <p>23 typed it. It's his letter. He</p> <p>24 signed it. He vouched it. Who</p> <p>25 cares who typed it? Where does that</p>	<p style="text-align: right;">Page 37</p> <p>1 C. BATTLE</p> <p>2 presented for you to review?</p> <p>3 A. This one here? Yes.</p> <p>4 Q. I'd like you to take Battle-2 and</p> <p>5 put next to it Battle-3.</p> <p>6 Do you know what a font is, sir?</p> <p>7 A. Yes.</p> <p>8 Q. When you compare Battle-2 with</p> <p>9 Battle-3, would you agree with me that they are</p> <p>10 the same font?</p> <p>11 MR. HAINES: Objection. You can</p> <p>12 answer the question, if you can.</p> <p>13 A. No. I guess they are different.</p> <p>14 Q. You think they are different?</p> <p>15 A. This is blurry, so I would say yes.</p> <p>16 Q. Would you agree with me that both</p> <p>17 Battle-2 and Battle-3 have paragraphs where the</p> <p>18 paragraphs -- the beginning of the paragraph is</p> <p>19 not indented?</p> <p>20 A. Yes.</p> <p>21 Q. Would you agree with me that both</p> <p>22 letters were typed up by the same person?</p> <p>23 A. Possibly.</p> <p>24 Q. And would you agree with me that</p> <p>25 both letters share certain portions being</p>

<p style="text-align: right;">Page 38</p> <p>1 C. BATTLE</p> <p>2 bolded?</p> <p>3 A. Yes.</p> <p>4 Q. And if you go through the letters,</p> <p>5 they share references to going to the FBI, the</p> <p>6 use of the phrase "blind eye."</p> <p>7 Would you agree with me that that appears in</p> <p>8 both of these letters?</p> <p>9 A. If you see them, I guess they are</p> <p>10 there. Yes.</p> <p>11 Q. Now, would you also agree with me</p> <p>12 that nowhere in Battle-3 is it indicated that</p> <p>13 anyone but you drafted, completed and finalized</p> <p>14 this letter?</p> <p>15 A. Sure. Yeah. My name is Charles</p> <p>16 Battle.</p> <p>17 Q. And did you pay anybody to assist in</p> <p>18 the completion of this letter?</p> <p>19 A. No.</p> <p>20 Q. Had you retained the Haines Law Firm</p> <p>21 at this point, sir?</p> <p>22 MR. HAINES: Objection. That's</p> <p>23 privileged information.</p> <p>24 MR. PODRAZA: Are you instructing</p> <p>25 him not to answer?</p>	<p style="text-align: right;">Page 40</p> <p>1 C. BATTLE</p> <p>2 A. Repeat the question again.</p> <p>3 Q. Sure.</p> <p>4 MR. PODRAZA: Can you read that</p> <p>5 back, please?</p> <p>6 (The requested portion of the</p> <p>7 transcript was read back.)</p> <p>8 A. I don't recall.</p> <p>9 Q. Isn't it a fact that Mr. Haines</p> <p>10 contacted the FBI, advised them of that, and, in</p> <p>11 turn, they called you?</p> <p>12 MR. HAINES: Objection. You</p> <p>13 don't have to answer that question</p> <p>14 on the grounds of attorney/client</p> <p>15 privilege.</p> <p>16 Q. Did you authorize Mr. Haines to have</p> <p>17 contact with any representatives of the</p> <p>18 Department of Justice on or before June 16,</p> <p>19 2020?</p> <p>20 MR. HAINES: Same objection.</p> <p>21 MR. PODRAZA: And the basis?</p> <p>22 MR. HAINES: Same objection, same</p> <p>23 basis. You're asking him about</p> <p>24 communications between him and his</p> <p>25 lawyer. I object on the grounds of</p>
<p style="text-align: right;">Page 39</p> <p>1 C. BATTLE</p> <p>2 MR. HAINES: I am.</p> <p>3 Q. Was it Mr. Haines who suggested to</p> <p>4 you to put the reference into contacting the</p> <p>5 FBI?</p> <p>6 MR. HAINES: Objection. Don't</p> <p>7 answer that question.</p> <p>8 Attorney/client privilege.</p> <p>9 Q. Did you actually contact the FBI?</p> <p>10 A. No.</p> <p>11 Q. Did you speak to the FBI, at all,</p> <p>12 regarding conduct by Mr. Bark, that you contend</p> <p>13 happened on June 7, 2020?</p> <p>14 A. They reached out to me.</p> <p>15 Q. The FBI called you?</p> <p>16 A. Yes.</p> <p>17 Q. And how was it that the FBI became</p> <p>18 aware that you had a situation with Mr. Bark?</p> <p>19 MR. HAINES: Objection. If you</p> <p>20 know. If you know how the FBI knew</p> <p>21 something, you would likely be the</p> <p>22 first person on the face of the</p> <p>23 earth who is able to testify to</p> <p>24 that. But go ahead, if you can.</p> <p>25 Q. Please answer.</p>	<p style="text-align: right;">Page 41</p> <p>1 C. BATTLE</p> <p>2 attorney/client privilege.</p> <p>3 Q. Did Mr. Haines, in fact, have</p> <p>4 contact with representatives of the Department</p> <p>5 of Justice prior to June 16, 2020 on your</p> <p>6 behalf?</p> <p>7 MR. HAINES: You can tell him</p> <p>8 what you know, about that question.</p> <p>9 A. No.</p> <p>10 Q. Did you or anybody else or anybody</p> <p>11 acting on your behalf have contact with the</p> <p>12 Department of Justice prior to the sending of</p> <p>13 June 16, 2020, letter?</p> <p>14 A. No.</p> <p>15 Q. Well, you did have contact with the</p> <p>16 FBI, correct, prior to June 16, 2020?</p> <p>17 A. Like I said, they contacted me.</p> <p>18 Q. Well, when I say had contact,</p> <p>19 whether they contacted you or you contacted</p> <p>20 them, prior to June 16, 2020, who on your behalf</p> <p>21 had contact with the government on your behalf,</p> <p>22 whether the government contacted them or they</p> <p>23 contacted the government?</p> <p>24 MR. HAINES: Objection to the</p> <p>25 question. I'm instructing you not</p>

<p style="text-align: right;">Page 42</p> <p>1 C. BATTLE</p> <p>2 to answer.</p> <p>3 MR. PODRAZA: The basis?</p> <p>4 MR. HAINES: Same basis.</p> <p>5 Mr. Battle is not going to disclose</p> <p>6 to you the names of anybody who is</p> <p>7 not otherwise in the record in this</p> <p>8 case.</p> <p>9 Q. Did Mr. Haines at any point, prior</p> <p>10 to June 16, 2020, have contact with government</p> <p>11 officials on your behalf?</p> <p>12 MR. HAINES: Objection.</p> <p>13 Q. You can answer.</p> <p>14 MR. HAINES: No, you're</p> <p>15 instructed not to answer that</p> <p>16 question.</p> <p>17 Mr. Battle is not here to testify</p> <p>18 about me.</p> <p>19 MR. PODRAZA: And the basis for</p> <p>20 your instruction?</p> <p>21 MR. HAINES: I just told you.</p> <p>22 He's not here to testify about me.</p> <p>23 I'm his lawyer. You can't ask him</p> <p>24 questions about his relationship</p> <p>25 with his lawyer. You know that.</p>	<p style="text-align: right;">Page 44</p> <p>1 C. BATTLE</p> <p>2 correct?</p> <p>3 A. I don't know.</p> <p>4 Q. Well, were you aware that that</p> <p>5 individual who was involved in an incident with</p> <p>6 Mr. Dougherty, is represented by Mr. Haines?</p> <p>7 A. Was I, did I know?</p> <p>8 Q. Yes.</p> <p>9 A. No, I did not know that.</p> <p>10 Q. Did you at some point learn about</p> <p>11 that?</p> <p>12 A. Possibly.</p> <p>13 Q. Would you have learned about</p> <p>14 Mr. Haines' representation of that other</p> <p>15 individual, prior to giving your statement to</p> <p>16 the Department of Labor in October of 2020?</p> <p>17 A. I don't recall.</p> <p>18 Q. Isn't it a fact that you sought the</p> <p>19 representation by Mr. Haines because of his</p> <p>20 representation of that other person against</p> <p>21 Mr. Dougherty?</p> <p>22 A. If I just told you I didn't know,</p> <p>23 then the answer is no.</p> <p>24 Q. Now, if you take a look at the</p> <p>25 June 6 and the June 16th letters, would you</p>
<p style="text-align: right;">Page 43</p> <p>1 C. BATTLE</p> <p>2 Q. Did you pay Mr. Haines or his law</p> <p>3 firm for any assistance in the completion of the</p> <p>4 June 16, 2020, letter?</p> <p>5 MR. HAINES: Objection. I'm</p> <p>6 instructing you not to answer on the</p> <p>7 grounds of attorney/client</p> <p>8 privilege.</p> <p>9 Q. Prior to the sending of your June 6</p> <p>10 and 16 letters, you were aware Mr. Haines was</p> <p>11 representing someone in a civil case against</p> <p>12 John Dougherty, personally, correct?</p> <p>13 A. No.</p> <p>14 Q. Are you suggesting you were not</p> <p>15 aware of the fisticuff at one of the picket</p> <p>16 lines between Mr. Dougherty and a non-union</p> <p>17 member?</p> <p>18 A. When he was hired?</p> <p>19 Q. No, I'm asking you. Were you aware</p> <p>20 of the situation of a non-union person at a</p> <p>21 picket line, allegedly entering into some sort</p> <p>22 of altercation or fistfight with Mr. Dougherty?</p> <p>23 Were you aware of that?</p> <p>24 A. It was all over the news. Yes.</p> <p>25 Q. And that was prior to June 16, 2020,</p>	<p style="text-align: right;">Page 45</p> <p>1 C. BATTLE</p> <p>2 agree with me that the same individuals are</p> <p>3 courtesy copied? If you look at what we marked</p> <p>4 as D-57, the Bates stamped, and then look at</p> <p>5 D-63.</p> <p>6 MR. HAINES: Don't these letters</p> <p>7 kind of speak for themselves? They</p> <p>8 say what they say. They identify</p> <p>9 who they identify. I'm not quite</p> <p>10 sure why you need him to verify a</p> <p>11 document that you have, that you've</p> <p>12 shown him.</p> <p>13 A. I would say you're correct.</p> <p>14 Q. Now, prior to the signing of the</p> <p>15 June 16th letter, did you, Mr. Haines or anybody</p> <p>16 from his office have contact with any</p> <p>17 representative of the Department of Labor?</p> <p>18 MR. HAINES: Objection. I'm</p> <p>19 instructing you not to answer that</p> <p>20 question on the grounds of</p> <p>21 attorney/client privilege.</p> <p>22 Q. Same question with respect to the</p> <p>23 Department of Justice.</p> <p>24 MR. HAINES: Same response.</p> <p>25 Q. And did you --</p>

<p style="text-align: right;">Page 46</p> <p>1 C. BATTLE</p> <p>2 MR. HAINES: I'm objecting and</p> <p>3 instructing you not to answer the</p> <p>4 question on the grounds of</p> <p>5 privilege.</p> <p>6 Q. And, sir, did you, prior to the</p> <p>7 sending of the June 16, 2020, letter have any</p> <p>8 contact with a representative of the Department</p> <p>9 of Labor?</p> <p>10 A. You know, I can't recall. I'm going</p> <p>11 to say no. No. I'm pretty sure it was no.</p> <p>12 Q. And how about with a representative</p> <p>13 of the Department of Justice, prior to --</p> <p>14 A. Look, I never talked to anybody from</p> <p>15 the Department of Justice. So that line of</p> <p>16 questioning, just -- I've never spoken to them.</p> <p>17 Q. Okay. When is the first time you</p> <p>18 spoke with somebody from the Department of</p> <p>19 Labor?</p> <p>20 A. I don't remember the date.</p> <p>21 Q. Was it before or after your protest</p> <p>22 letter or your protest was denied?</p> <p>23 A. After.</p> <p>24 Q. Now, who is Frank Halgash? Did I</p> <p>25 pronounce that right?</p>	<p style="text-align: right;">Page 48</p> <p>1 C. BATTLE</p> <p>2 Q. Well, was it between the time of</p> <p>3 your June 6 letter of 2020, to the time of your</p> <p>4 June 16, 2020, letter?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did you at least speak with him</p> <p>7 prior to the sending of your June 16, 2020,</p> <p>8 letter?</p> <p>9 A. Possibly.</p> <p>10 Q. And what did you talk about?</p> <p>11 A. Just the state of the union, how</p> <p>12 dissatisfied we were with the leadership.</p> <p>13 Q. And how many times would you have</p> <p>14 spoken with him?</p> <p>15 A. Maybe twice.</p> <p>16 Q. Did you discuss Mr. Halgash</p> <p>17 contacting the IVP about when you were going to</p> <p>18 be making your protest?</p> <p>19 A. No.</p> <p>20 Q. The topic never came up in</p> <p>21 discussion between you and Mr. Halgash?</p> <p>22 A. Not that I recall.</p> <p>23 Q. You knew that Mr. Halgash was not a</p> <p>24 fan of Mr. Dougherty before you sent your</p> <p>25 June 16th letter, correct?</p>
<p style="text-align: right;">Page 47</p> <p>1 C. BATTLE</p> <p>2 A. Local 98 member.</p> <p>3 Q. Did I pronounce his name right?</p> <p>4 A. Yeah, Halgash.</p> <p>5 Q. And he's with the union?</p> <p>6 A. Yes.</p> <p>7 Q. Did you speak with him prior to the</p> <p>8 sending of either your June 6 or June 16th</p> <p>9 letter?</p> <p>10 A. Frank reached out to me, so, yes.</p> <p>11 Q. Tell me the circumstances of</p> <p>12 Frank -- Mr. Halgash reaching out to you, when</p> <p>13 and how?</p> <p>14 A. By phone. And he reached out</p> <p>15 because I was speaking up at meetings. And he</p> <p>16 was kind of thanking me. It's about time</p> <p>17 somebody stood up and, you know...</p> <p>18 Q. Which meetings are you referring to?</p> <p>19 A. The general meetings.</p> <p>20 Q. All right. So the last general</p> <p>21 meeting would have been in February of 2020; is</p> <p>22 that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And when did Mr. Halgash call you?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 49</p> <p>1 C. BATTLE</p> <p>2 A. Neither are 3000 members of the</p> <p>3 local.</p> <p>4 Q. Can you answer my question, please?</p> <p>5 A. Neither are 3000 member of the</p> <p>6 local.</p> <p>7 MR. PODRAZA: I'll move to strike</p> <p>8 as nonresponsive.</p> <p>9 Q. My question is: You knew that</p> <p>10 Mr. Halgash was not a fan of Mr. Dougherty prior</p> <p>11 to the signing of your June 16th letter,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you know that Mr. Halgash sent a</p> <p>15 letter to the IVP about when you sent your</p> <p>16 June 16th letter, correct?</p> <p>17 A. No.</p> <p>18 Q. Let's take a look then at Exhibit 4.</p> <p>19 (Letter dated 6/15/20 is received</p> <p>20 and marked as Battle Exhibit 4 for</p> <p>21 identification, as of this date.)</p> <p>22 Q. Take a look at Exhibit 4, that's</p> <p>23 been presented before you, and when you are</p> <p>24 through let me know, because I'll have a few</p> <p>25 questions.</p>

<p style="text-align: right;">Page 50</p> <p>1 C. BATTLE</p> <p>2 All right. Now I'm going to ask you to put</p> <p>3 next to what we marked as Exhibit 4, both Battle-2</p> <p>4 and Battle-3.</p> <p>5 A. Do I have to open to the last page?</p> <p>6 Q. Excuse me?</p> <p>7 A. Am I opening to the last page?</p> <p>8 Q. At some point you may. Now, what</p> <p>9 has been produced in this litigation by the</p> <p>10 Department of Labor is the letter by</p> <p>11 Mr. Halgash, as you can see by the indication at</p> <p>12 the bottom right-hand corner, the DOL Local 98,</p> <p>13 and then there's a Bates stamp number.</p> <p>14 Do you see that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And the date of the letter is</p> <p>17 June 15, 2020, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And the date of your protest letter</p> <p>20 is June 16, 2020, correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. All right. And would you agree with</p> <p>23 me that both letters start out with the name of</p> <p>24 the signator, and in Mr. Halgash's case, it says</p> <p>25 Frank Halgash and then his address, correct?</p>	<p style="text-align: right;">Page 52</p> <p>1 C. BATTLE</p> <p>2 Repetitive. He's answered your</p> <p>3 question. The documents speak for</p> <p>4 themselves. Everybody in this room</p> <p>5 and everybody in the jury box is</p> <p>6 going to be able to look at this.</p> <p>7 Q. Sir, at the very top of the page,</p> <p>8 what is the very first thing on the first page</p> <p>9 of Mr. Halgash's letter?</p> <p>10 A. Frank Halgash.</p> <p>11 Q. And beneath that, it says?</p> <p>12 A. His address.</p> <p>13 Q. And then if we turn to your letter</p> <p>14 of June 16, 2020, which is Battle-3, at the very</p> <p>15 top of the page, what appears there?</p> <p>16 A. I'll say it again. My name. His</p> <p>17 address.</p> <p>18 Q. His address or your address?</p> <p>19 A. His address.</p> <p>20 Q. I see. So whoever typed up this</p> <p>21 letter used the wrong address -- is that</p> <p>22 correct -- for you?</p> <p>23 A. Looks that way.</p> <p>24 Q. Do you know who typed up Mr. Hal-</p> <p>25 gash's letter?</p>
<p style="text-align: right;">Page 51</p> <p>1 C. BATTLE</p> <p>2 A. Yeah, look at that.</p> <p>3 Q. And your June 16th letter also has</p> <p>4 your name at the top and your address, correct?</p> <p>5 A. No.</p> <p>6 Q. Well, if you look at Battle-3, sir</p> <p>7 --</p> <p>8 A. I see it. I see it.</p> <p>9 Q. So you would agree with me that your</p> <p>10 letter starts out with your name and your</p> <p>11 address, same as Mr. Halgash's, correct?</p> <p>12 A. Our names are not the same, no.</p> <p>13 Q. Like his name being there with his</p> <p>14 address, on your June 16th, Battle-3, your name</p> <p>15 with your address, appears in the same place on</p> <p>16 the letter as --</p> <p>17 A. No.</p> <p>18 Q. -- Mr. Halgash? What is the</p> <p>19 difference, sir?</p> <p>20 A. That's not my address.</p> <p>21 Q. Okay. Why don't we simply this a</p> <p>22 little bit more for you. Do you see in Exhibit</p> <p>23 4, Mr. Halgash, at the very top of the page sir,</p> <p>24 what does it say?</p> <p>25 MR. HAINES: Objection.</p>	<p style="text-align: right;">Page 53</p> <p>1 C. BATTLE</p> <p>2 A. No.</p> <p>3 Q. Mr. Haines's office did, didn't he,</p> <p>4 sir? No?</p> <p>5 MR. HAINES: Wait a minute. Wait</p> <p>6 a minute. You take me for being a</p> <p>7 lot dumber than I really am. But I</p> <p>8 will object to that question on the</p> <p>9 grounds of attorney/client</p> <p>10 privilege.</p> <p>11 MR. PODRAZA: Well, I don't know</p> <p>12 how you can have attorney/client</p> <p>13 privilege with Halgash, and have it</p> <p>14 go to him.</p> <p>15 MR. HAINES: Well, I don't know</p> <p>16 how you can ask him what I did,</p> <p>17 so...</p> <p>18 Q. You know that the Haines' office</p> <p>19 typed up the Halgash letter, don't you, sir?</p> <p>20 MR. HAINES: Go ahead and answer</p> <p>21 that question.</p> <p>22 A. I'd like to take a nap right now.</p> <p>23 MR. HAINES: No, no, no. Just</p> <p>24 answer the question.</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 54</p> <p>1 C. BATTLE</p> <p>2 Q. Did you pay for the services of the</p> <p>3 Haines's office to assist in the completion of</p> <p>4 the Halgash letter?</p> <p>5 A. No.</p> <p>6 Q. Would you agree with me that the</p> <p>7 type of both Battle-3, your June 16, 2020,</p> <p>8 letter, and the letter by Mr. Halgash of</p> <p>9 June 15, 2020, are the same?</p> <p>10 A. How would I answer that? I don't</p> <p>11 know what printer it came off of or what</p> <p>12 typewriter, so how would I know?</p> <p>13 Q. I'm asking you, if you look at them,</p> <p>14 would you agree it's the same font, both</p> <p>15 letters?</p> <p>16 MR. HAINES: Objection.</p> <p>17 A. I can look at the piece of paper you</p> <p>18 have, it will look like the same font.</p> <p>19 Q. Sir, if you can't answer it, you can</p> <p>20 just say that.</p> <p>21 A. I'm not going to answer a dumb</p> <p>22 question.</p> <p>23 Q. Would you agree with me that the</p> <p>24 structure of the letter has each paragraph not</p> <p>25 indented? In other words, they are squared off?</p>	<p style="text-align: right;">Page 56</p> <p>1 C. BATTLE</p> <p>2 letter and your June 16, 2020, protest letter?</p> <p>3 Correct?</p> <p>4 MR. HAINES: Assuming I'm able to</p> <p>5 read the English language, it would</p> <p>6 appear that you're correct about</p> <p>7 that.</p> <p>8 MR. PODRAZA: Counsel, I'd rather</p> <p>9 your client testify.</p> <p>10 MR. HAINES: Please don't waste</p> <p>11 my client's or my time with this</p> <p>12 nonsense or we will be gone.</p> <p>13 Q. Will you please answer the question:</p> <p>14 The same courtesy copy recipients appear on both</p> <p>15 letters, correct?</p> <p>16 MR. HAINES: Counsel, move on.</p> <p>17 MR. PODRAZA: And your reason for</p> <p>18 it --</p> <p>19 MR. HAINES: He's not answering</p> <p>20 the question.</p> <p>21 MR. PODRAZA: Your reason for</p> <p>22 your instruction?</p> <p>23 MR. HAINES: You're -- you are</p> <p>24 badgering the witness at this point.</p> <p>25 Q. Isn't it a fact that you</p>
<p style="text-align: right;">Page 55</p> <p>1 C. BATTLE</p> <p>2 Both letters have that, correct?</p> <p>3 MR. HAINES: Objection. Can we</p> <p>4 do something relevant here this</p> <p>5 afternoon? And not waste our time</p> <p>6 with nonsense, what this is.</p> <p>7 Q. Would you answer the question, sir?</p> <p>8 A. No. I'm not going to answer the</p> <p>9 question.</p> <p>10 Q. Would you disagree that much like</p> <p>11 your June 16, 2020, letter, the Halgash letter</p> <p>12 also has certain portions that are bolded?</p> <p>13 MR. HAINES: Go ahead. Answer</p> <p>14 the question.</p> <p>15 A. Yes.</p> <p>16 MR. HAINES: We're going to play</p> <p>17 games here for a while.</p> <p>18 Q. And when you turn to the signature</p> <p>19 page of your letter and, well, Mr. Halgash's</p> <p>20 signature page, which is Local 98, 00243, in</p> <p>21 comparison with D-57, the courtesy copy</p> <p>22 individuals are the same, correct?</p> <p>23 A. Ask that again, please.</p> <p>24 Q. Sure. The courtesy copy recipients,</p> <p>25 they are the same, correct, between the Halgash</p>	<p style="text-align: right;">Page 57</p> <p>1 C. BATTLE</p> <p>2 collaborated with Mr. Halgash to send both your</p> <p>3 letter and his letter to the Department of</p> <p>4 Labor?</p> <p>5 A. No.</p> <p>6 Q. Isn't it a fact that you discussed</p> <p>7 with Mr. Halgash and said it would be very</p> <p>8 helpful if he would send a letter, in the matter</p> <p>9 that he did, to DOL, along with you sending your</p> <p>10 protest letter?</p> <p>11 A. Absolutely not.</p> <p>12 Q. And isn't it a fact that the common</p> <p>13 denominator for Mr. Halgash and you would be the</p> <p>14 Haines -- The Haines Law Firm and Mr. Haines,</p> <p>15 himself?</p> <p>16 MS. DeBRUICKER: Objection.</p> <p>17 MR. HAINES: Where do you come up</p> <p>18 with this garbage?</p> <p>19 A. This is a joke.</p> <p>20 Q. And did you pay for anyone's</p> <p>21 services with respect to your June 16, 2020,</p> <p>22 letter?</p> <p>23 MR. HAINES: You can answer the</p> <p>24 question.</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 58</p> <p>1 C. BATTLE</p> <p>2 Q. Do you have any explanation as to</p> <p>3 why the Halgash letter has the same courtesy</p> <p>4 copy recipients as your June 16, 2020, letter?</p> <p>5 MR. HAINES: Objection. Don't</p> <p>6 answer the question. Move on.</p> <p>7 MR. PODRAZA: And the basis?</p> <p>8 MR. HAINES: We have been down</p> <p>9 this road. You're just harassing</p> <p>10 him and keeping us here</p> <p>11 unnecessarily. So if you want to</p> <p>12 ask irrelevant questions, he won't</p> <p>13 answer them.</p> <p>14 We are not playing who -- what</p> <p>15 font is what font on two letters.</p> <p>16 It's not why he's here.</p> <p>17 MS. DeBRUICKER: Counsel, would I</p> <p>18 proposing some stipulations allow us</p> <p>19 to move on?</p> <p>20 MR. PODRAZA: I don't think we</p> <p>21 have much more. We will deal with</p> <p>22 Judge McHugh.</p> <p>23 Q. It's been brought to my attention,</p> <p>24 thank you, by this witness, that your June 16,</p> <p>25 2020, letter has the address for Mr. Halgash on</p>	<p style="text-align: right;">Page 60</p> <p>1 C. BATTLE</p> <p>2 Prior to sending your June 16, 2020, letter,</p> <p>3 did you have any conversations with Mr. McConnell?</p> <p>4 A. Ask it again, please.</p> <p>5 Q. Sure. Prior to sending your June</p> <p>6 16th, 2020, letter, the protest letter that we</p> <p>7 reviewed here, did you have any conversations</p> <p>8 with Mr. McConnell?</p> <p>9 A. Any particular subject or any</p> <p>10 conversation?</p> <p>11 Q. Any conversations.</p> <p>12 A. Yeah.</p> <p>13 Q. About what?</p> <p>14 A. About our line (phonetic) for</p> <p>15 office.</p> <p>16 Q. What did you say and what did he</p> <p>17 say?</p> <p>18 A. I can't recall. It was over a year</p> <p>19 ago.</p> <p>20 Q. At some point, did you ask</p> <p>21 Mr. McConnell to allow himself to be interviewed</p> <p>22 by Mr. Kieffer?</p> <p>23 A. Possibly.</p> <p>24 Q. What did you say to Mr. McConnell?</p> <p>25 A. Yeah, I could not recall. I don't</p>
<p style="text-align: right;">Page 59</p> <p>1 C. BATTLE</p> <p>2 it, correct?</p> <p>3 A. We just went over that.</p> <p>4 MR. HAINES: Asked and answered.</p> <p>5 Q. Does it?</p> <p>6 MR. HAINES: Asked and answered.</p> <p>7 He said that. Let's move on.</p> <p>8 Q. Why? Why?</p> <p>9 MR. HAINES: If you know, you can</p> <p>10 answer the question.</p> <p>11 A. I don't know.</p> <p>12 Q. When you were interviewed by IVP,</p> <p>13 did you make any reference to any contacts you</p> <p>14 had had with Mr. Halgash prior to your</p> <p>15 speaking --</p> <p>16 A. When I was interviewed by who?</p> <p>17 Q. The investigator for IVP.</p> <p>18 A. Who is IVP?</p> <p>19 Q. Kieffer. Randy Kieffer. Did you</p> <p>20 make any representations to Mr. Kieffer about</p> <p>21 Mr. Halgash?</p> <p>22 A. No. Not that I recall, no.</p> <p>23 Q. Let's talk about, a little bit of</p> <p>24 the interaction you had with the investigator</p> <p>25 for IVP. When you were --</p>	<p style="text-align: right;">Page 61</p> <p>1 C. BATTLE</p> <p>2 know.</p> <p>3 Q. Did you request that Mr. McConnell</p> <p>4 support your claims of intimidation and</p> <p>5 retaliation with respect to --</p> <p>6 A. No, I would not have done that --</p> <p>7 Q. Let me finish my question.</p> <p>8 A. Sorry.</p> <p>9 Q. -- with respect to the June 9, 2020,</p> <p>10 nomination proceeding?</p> <p>11 A. No, that would not have happened.</p> <p>12 Q. Did you explain to Mr. McConnell</p> <p>13 what it is you expected him to speak about with</p> <p>14 Mr. Kieffer?</p> <p>15 A. Absolutely not.</p> <p>16 Q. And I believe you spoke with</p> <p>17 Mr. Kieffer several times; is that correct?</p> <p>18 A. I would say maybe two, maybe three.</p> <p>19 Q. Were they in person or by telephone?</p> <p>20 A. Telephone.</p> <p>21 Q. And was Mr. Kieffer pleasant?</p> <p>22 A. Yes.</p> <p>23 Q. Did he act professionally?</p> <p>24 A. Yes.</p> <p>25 Q. Did he do or say anything that was</p>

<p style="text-align: right;">Page 62</p> <p>1 C. BATTLE</p> <p>2 offensive to you?</p> <p>3 A. No, uh-uh.</p> <p>4 Q. And were you honest with</p> <p>5 Mr. Kieffer?</p> <p>6 A. Absolutely.</p> <p>7 Q. And were you truthful?</p> <p>8 A. Absolutely.</p> <p>9 Q. I'd like to show you then what we</p> <p>10 are going to mark as Battle-5.</p> <p>11 (Letter dated 7/28/20 is received</p> <p>12 and marked as Battle Exhibit 5 for</p> <p>13 identification, as of this date.)</p> <p>14 Q. While you're looking at that, in</p> <p>15 preparation for your deposition today, did you</p> <p>16 have the opportunity to review the June 6, 2020,</p> <p>17 letter, which we have marked as Exhibit 2 and</p> <p>18 your June 16, 2020, letter, that we have marked</p> <p>19 as Exhibit 3?</p> <p>20 A. I have copies, yes.</p> <p>21 Q. Right. And did you review them in</p> <p>22 your prep session prior to the deposition here</p> <p>23 today?</p> <p>24 A. Yes.</p> <p>25 Q. Please take a look at what we are</p>	<p style="text-align: right;">Page 64</p> <p>1 C. BATTLE</p> <p>2 A. By the way, these are not indented,</p> <p>3 these --</p> <p>4 MR. HAINES: Charlie --</p> <p>5 A. Go ahead.</p> <p>6 MR. PODRAZA: I'll move to strike</p> <p>7 the voluntary statement.</p> <p>8 Q. But I appreciate you bringing it to</p> <p>9 my attention.</p> <p>10 A. You're welcome.</p> <p>11 Q. But if you look at the third</p> <p>12 paragraph on the second page, at 252, starting</p> <p>13 out with: At the nomination, and then it ends</p> <p>14 with: Premises, is there any portions of that</p> <p>15 paragraph that you disagree with?</p> <p>16 A. Yes. Hold on. Let me read the</p> <p>17 whole paragraph.</p> <p>18 Can I have a pencil or a pen or something?</p> <p>19 Thank you. Pretty much the whole paragraph.</p> <p>20 Q. Well, I need you to be specific.</p> <p>21 Can you point out what you disagree with, that's</p> <p>22 repre --</p> <p>23 A. Okay. I never -- never intended to</p> <p>24 self-nominate.</p> <p>25 Q. Okay. Anything else?</p>
<p style="text-align: right;">Page 63</p> <p>1 C. BATTLE</p> <p>2 marking as Battle-5, and when you had an</p> <p>3 opportunity to review it, I'll have a few</p> <p>4 questions for you.</p> <p>5 A. Sure.</p> <p>6 I never said that.</p> <p>7 MR. HAINES: Talk to yourself.</p> <p>8 A. Okay.</p> <p>9 Q. Okay?</p> <p>10 A. Yup.</p> <p>11 Q. Before today have you ever had an</p> <p>12 opportunity to review what has been marked here</p> <p>13 as Battle-5, the July 28, 2020, letter by</p> <p>14 Mr. Kieffer?</p> <p>15 A. Yes.</p> <p>16 Q. When did you review it?</p> <p>17 A. Tuesday.</p> <p>18 Q. And you read it in total?</p> <p>19 A. Yes.</p> <p>20 Q. Then I'd like to turn your attention</p> <p>21 to the second page, which has the Bates stamp</p> <p>22 00252.</p> <p>23 A. Uh-huh.</p> <p>24 Q. You see the third full paragraph,</p> <p>25 starting out with: At the nomination meeting?</p>	<p style="text-align: right;">Page 65</p> <p>1 C. BATTLE</p> <p>2 A. Yeah, I don't remember saying this.</p> <p>3 After discussing with him, he told me he didn't</p> <p>4 ask anyone, nor did he tell anyone at the time</p> <p>5 to have a nominator run for</p> <p>6 office. [unintelligible] -- no, I never said</p> <p>7 that.</p> <p>8 Q. What portion of it are you saying</p> <p>9 you never did, and which part --</p> <p>10 A. He was relatively sure he could</p> <p>11 nominate himself, but not positive.</p> <p>12 Q. Okay. That, you never said to</p> <p>13 Mr. Kieffer? Is that what you're saying?</p> <p>14 A. Not that I recall. I just -- here's</p> <p>15 the whole point of this, if I could have</p> <p>16 nominated myself, I would have done it.</p> <p>17 Q. Well, I'm more focused on what</p> <p>18 Mr. Kieffer said. I'm asking: Do you agree or</p> <p>19 disagree with his representations? And more,</p> <p>20 I'm interested in what is, from your vantage</p> <p>21 point, absolutely incorrect, and what do you not</p> <p>22 know for sure that you may or may not have</p> <p>23 shared with him.</p> <p>24 MS. DeBRUICKER: Objection to the</p> <p>25 form.</p>

Page 66

1 C. BATTLE

2 MR. HAINES: I think you asked

3 him four questions. Same objection.

4 THE WITNESS: Are we answering

5 this or no?

6 MR. HAINES: Start with the

7 sentence that begins: Brother

8 Battle stated.

9 A. Brother Battle stated to me in our

10 discussion that he intended to nominate himself

11 for president; that's absolutely false.

12 Q. Okay. Continue.

13 MR. HAINES: Next sentence.

14 A. After he read the notice -- which

15 I'm assuming is the notice that was sent in the

16 mail?

17 Q. Yes.

18 MR. HAINES: The question is what

19 is not true.

20 A. So that's not true. I never --

21 MR. HAINES: What is that? What

22 are you saying is not true?

23 A. So this says: After he read the

24 notice, he thought he might need a nominator run

25 for office, but after discussing this with him,

Page 67

1 C. BATTLE

2 he told me he didn't ask anyone.

3 I never said that.

4 Q. Did you ask anyone?

5 A. Yes.

6 Q. Who did you ask?

7 MR. HAINES: Objection.

8 A. Nor did anyone tell him --

9 Q. Mr. Battle, who did you ask?

10 A. I'm reading this.

11 Q. I know, but I'm asking you the

12 question.

13 MR. HAINES: Well, let him finish

14 answering what you asked him to do.

15 Q. Mr. Battle, who did you ask?

16 MR. HAINES: Objection. Don't

17 answer that question. He's either

18 going to finish what you asked him

19 to do, or he's not. Are you

20 instructing him to stop where he is?

21 MR. PODRAZA: He can proceed

22 through, and we will come back to

23 the question.

24 MR. HAINES: Then stop where you

25 are. You have not finished the

Page 68

1 C. BATTLE

2 paragraph. Go ahead and answer his

3 question. No, no, Charlie. There's

4 a question pending --

5 MR. PODRAZA: Excuse me,

6 Mr. Haines. You're here as a

7 personal counsel. As a personal

8 counsel, you have not entered your

9 appearance. You have intervened,

10 and you have a very limited purpose.

11 Let's not overstep our boundaries.

12 We have been very patient with your

13 childish behavior to this moment.

14 That comes to a limited end.

15 Q. Now, Mr. Battle, I've asked --

16 MR. HAINES: You don't advance

17 your ball when you accuse me of

18 childish behavior. I've invited you

19 to call Judge McHugh. I'll repeat

20 the invitation. If you want to stop

21 the deposition and you want to ask

22 the judge to review the testimony so

23 far, that's fine.

24 MR. PODRAZA: And we will at the

25 end of the deposition. That's fine.

Page 69

1 C. BATTLE

2 MR. HAINES: My purpose here is

3 to protect the interest of my

4 client.

5 Q. Mr. Battle, you were saying that you

6 did ask somebody when you were reading the

7 question about -- or excuse me, the passage

8 where he says: Discussed it with him. He told

9 me he didn't ask anybody. And you said that's

10 not true, correct?

11 A. Correct.

12 Q. Who did you ask?

13 A. Michael Copping.

14 Q. Anyone else?

15 A. You only need one person to

16 nominate, so no.

17 Q. And did that discussion with

18 Mr. Copping occur prior to the June 9, 2020,

19 nomination proceeding?

20 A. Yes.

21 Q. Okay. Now, if you can continue on

22 with the paragraph, from: Ask anybody, is there

23 any other representation that Mr. Kieffer

24 makes in that paragraph with which you disagree?

25 A. I don't understand this. Nor did

<p style="text-align: right;">Page 70</p> <p>1 C. BATTLE</p> <p>2 anyone tell him he had to have a nominator to</p> <p>3 run for office.</p> <p>4 I don't even know why I would even say that,</p> <p>5 so that does not sound like something I would say.</p> <p>6 Q. Okay. Anything else in that</p> <p>7 paragraph?</p> <p>8 A. I'm reading. See, I don't think I</p> <p>9 would say this either. He was relatively sure</p> <p>10 he could nominate himself, but not positive.</p> <p>11 I never, like I said, knew that you could</p> <p>12 nominate yourself, so I don't think I would have</p> <p>13 said that.</p> <p>14 Q. Anything further?</p> <p>15 A. I'm reading.</p> <p>16 So I know this -- this is not true. No</p> <p>17 officer gave him any advice, nor did he ask anyone</p> <p>18 for advice. And he questioned himself if</p> <p>19 self-nomination was self-satisfactory.</p> <p>20 No, that's not true.</p> <p>21 Q. Did you ask anybody who was at the</p> <p>22 hall on June 9, 2020 for any instructions or</p> <p>23 guidance?</p> <p>24 A. That's not a simple yes-or-no</p> <p>25 answer. If you want the answer, I can give it</p>	<p style="text-align: right;">Page 72</p> <p>1 C. BATTLE</p> <p>2 A. I'm not saying anyone's name.</p> <p>3 Q. Anything further?</p> <p>4 A. Let me continue, please. The point</p> <p>5 to the question is, in a hostile environment,</p> <p>6 who am I going to ask? No one is there to help</p> <p>7 me.</p> <p>8 Q. And so you didn't ask anybody,</p> <p>9 correct?</p> <p>10 A. I think I answered the question.</p> <p>11 Q. Anything else in that paragraph?</p> <p>12 A. I'm reading.</p> <p>13 Okay. So the whole -- the whole last</p> <p>14 sentence is just bullshit.</p> <p>15 Q. Okay. Why don't we put that side.</p> <p>16 And I'd like to turn to Exhibit 6. And after</p> <p>17 Exhibit 6, we will take a break because the</p> <p>18 videographer needs to change his tape; is that</p> <p>19 okay?</p> <p>20 A. Sure.</p> <p>21 (Letter dated 7/31/20 is received</p> <p>22 and marked as Battle Exhibit 6 for</p> <p>23 identification, as of this date.)</p> <p>24 Q. What is before you is what we are</p> <p>25 marking as Exhibit 6, which is a letter dated</p>
<p style="text-align: right;">Page 71</p> <p>1 C. BATTLE</p> <p>2 to you.</p> <p>3 Q. Sure.</p> <p>4 A. Okay. Who would I ask? Would I ask</p> <p>5 the agent that came to my house twice? Would I ask</p> <p>6 ask the agent that intimidated my job and</p> <p>7 threatened my career when I was a foreman at the</p> <p>8 convention center? Would I ask someone who's</p> <p>9 suing me? Would I ask an agent when I was in</p> <p>10 Poland? I asked for his help, and he pretty</p> <p>11 much told me to go F-off and hung up on me? Who</p> <p>12 would I ask?</p> <p>13 Q. The agent you're making reference</p> <p>14 to, is that Mr. Bark?</p> <p>15 A. There's many agents. Not just one.</p> <p>16 So I'm not saying anyone's name.</p> <p>17 Q. You said somebody came to your</p> <p>18 house. Was that Mr. Bark?</p> <p>19 A. I'm not saying anyone's name.</p> <p>20 Q. Well, you will in your statement</p> <p>21 on --</p> <p>22 A. Right now I'm not saying anyone's</p> <p>23 name.</p> <p>24 Q. Is it Mr. Bark who was in contact</p> <p>25 with you when you were in Poland?</p>	<p style="text-align: right;">Page 73</p> <p>1 C. BATTLE</p> <p>2 July 31, 2020, addressed to you, from Michael</p> <p>3 Welsh, senior national vice president. Take a</p> <p>4 look at it, and when you feel comfortable, I'll</p> <p>5 have a few questions for you.</p> <p>6 A. Yeah, I'm good.</p> <p>7 Q. Okay. Did you receive this letter</p> <p>8 dated July 31st, 2020?</p> <p>9 A. Yes.</p> <p>10 MR. PODRAZA: Why don't we take</p> <p>11 that break now?</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 now 5:12. This concludes media unit</p> <p>14 Number 1.</p> <p>15 (A break was taken.)</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 now 5:27. This begins media unit</p> <p>18 Number 2. You may proceed.</p> <p>19 Q. Thank you. Sir, I'm going to show</p> <p>20 you a document that we are going to mark now as</p> <p>21 Battle-7, and I'm going to ask if you review it,</p> <p>22 and then if you can identify for me what it is.</p> <p>23 (Hand-written document is</p> <p>24 received and marked as Battle</p> <p>25 Exhibit 7 for identification, as of</p>

<p style="text-align: right;">Page 74</p> <p>1 C. BATTLE</p> <p>2 this date.)</p> <p>3 MR. HAINES: We are not doing</p> <p>4 anything with Battle-6?</p> <p>5 MR. PODRAZA: That is correct.</p> <p>6 A. I'm sorry. Sorry about that. I was</p> <p>7 zoned out for a minute. Okay.</p> <p>8 Q. Okay. What is Battle-7?</p> <p>9 A. I don't know.</p> <p>10 Q. It appears to be the appeal you took</p> <p>11 to the Department of Labor. Would that help you</p> <p>12 in understanding what Battle-7 is?</p> <p>13 A. Okay.</p> <p>14 Q. Does that help?</p> <p>15 A. I really don't remember this, but</p> <p>16 okay.</p> <p>17 Q. It's a document, though, dated</p> <p>18 August 18, 2020; is that correct?</p> <p>19 A. That's what it's dated.</p> <p>20 Q. And it's in your handwriting; isn't</p> <p>21 it?</p> <p>22 A. No. That isn't even how I sign my</p> <p>23 name.</p> <p>24 Q. Whose handwriting is it?</p> <p>25 A. I could not tell you. I don't even</p>	<p style="text-align: right;">Page 76</p> <p>1 C. BATTLE</p> <p>2 A. It looks similar, but like I said, I</p> <p>3 can't say for sure that's mine.</p> <p>4 Q. Well, besides yourself, who would</p> <p>5 have had authority --</p> <p>6 A. No one.</p> <p>7 Q. -- to act on your behalf?</p> <p>8 A. No one.</p> <p>9 Q. At the time, though, that this</p> <p>10 document was created, August 18, 2020, it's a</p> <p>11 fact that you were then being represented by the</p> <p>12 Rains firm -- excuse me, the Haines firm,</p> <p>13 correct?</p> <p>14 A. Let me think about that for a</p> <p>15 minute. So I can't recall the date that I</p> <p>16 sought out his representation, so I don't know.</p> <p>17 Q. Well, prior to August 18, 2020, you</p> <p>18 had already been sued with respect to the</p> <p>19 website in the state court, correct?</p> <p>20 A. If you say so. I don't know the</p> <p>21 date.</p> <p>22 Q. And your representation in the state</p> <p>23 court case is with the Haines Law Firm; is that</p> <p>24 correct?</p> <p>25 A. In the lawsuit?</p>
<p style="text-align: right;">Page 75</p> <p>1 C. BATTLE</p> <p>2 remember this.</p> <p>3 Q. That's not your signature?</p> <p>4 A. That's not how I sign my last name.</p> <p>5 No, uh-uh.</p> <p>6 Q. Well, are you giving authority to</p> <p>7 somebody to take an appeal for you -- strike</p> <p>8 that.</p> <p>9 Did you give anybody authority to file a</p> <p>10 document taking an appeal from the denial by the</p> <p>11 IVP to the DOL?</p> <p>12 A. So, I'm sorry. Ask it one more</p> <p>13 time.</p> <p>14 (The requested portion of the</p> <p>15 transcript was read back.)</p> <p>16 A. No. I would have done everything</p> <p>17 myself.</p> <p>18 Q. You're positive that that's not your</p> <p>19 signature?</p> <p>20 A. I mean, it's similar, but it's --</p> <p>21 the last name would be different. It's similar</p> <p>22 to my handwriting, but I can't say for sure that</p> <p>23 that's mine. I really can't.</p> <p>24 Q. And the handwriting above, is that</p> <p>25 yours?</p>	<p style="text-align: right;">Page 77</p> <p>1 C. BATTLE</p> <p>2 Q. Yes.</p> <p>3 A. I don't understand the relevance</p> <p>4 to --</p> <p>5 MR. HAINES: Answer the question.</p> <p>6 You're right, it doesn't --</p> <p>7 A. So ask again. Ask again.</p> <p>8 Q. And Mr. Haines is representing you</p> <p>9 in that lawsuit that was filed in state court</p> <p>10 over the website; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And if I told you that that</p> <p>13 litigation started in July of 2020, would you</p> <p>14 agree with me then that the lawsuit over the</p> <p>15 website came before the date of the document</p> <p>16 that's been marked here as Battle-7?</p> <p>17 A. If your dates are accurate, then</p> <p>18 this is mine.</p> <p>19 Q. Okay. Did somebody from the Haines</p> <p>20 Law Firm --</p> <p>21 A. Oh, my God. Here we go again.</p> <p>22 Q. -- create what has been marked here</p> <p>23 as Exhibit 7, and ultimately then given to the</p> <p>24 Department of Labor?</p> <p>25 A. No.</p>

Page 78

1 C. BATTLE

2 Q. At the time of the creation of what

3 has been marked here is as Battle-7, Bob Bark

4 was a plaintiff in that lawsuit over the website

5 against you; is that correct?

6 A. He was one, yes.

7 Q. And the lawsuit also named your wife

8 as a defendant, correct?

9 A. Yes.

10 Q. And you were not very happy about

11 the fact that Mr. Bark and others had sued you,

12 correct?

13 MS. DeBRUICKER: Objection.

14 MR. HAINES: You want to talk

15 about childish. Where are we going

16 with this non-sense?

17 A. I was thrilled.

18 Q. Were you happy that you had been

19 sued by Mr. Bark and others?

20 MS. DeBRUICKER: Objection.

21 A. I'm not answering that.

22 Q. Now, prior to the Department of

23 Labor receiving what has been marked here as

24 bottle Battle-7, you can see up at the top,

25 left-hand corner they received that on

Page 79

1 C. BATTLE

2 August 18, 2020. Do you see that?

3 A. Uh-huh.

4 Q. Okay. Had anybody on your behalf

5 had any contact with a representative of the

6 Department of Labor?

7 MS. DeBRUICKER: Objection. At

8 what point?

9 MR. PODRAZA: Any time before

10 August 18, 2020.

11 MS. DeBRUICKER: Aside from the

12 communications that you already

13 covered?

14 MR. PODRAZA: Which I have not

15 been able to cover because of

16 assertions of privilege.

17 Q. Had anybody, prior to August 18,

18 2020, spoken with a representative from the

19 Department of Labor on your behalf?

20 MR. HAINES: If you know. You

21 should not have made that comment

22 about childish on my part. That was

23 a stupid question. How would he

24 know? Are you asking him what he

25 knows, or are you asking him to

Page 80

1 C. BATTLE

2 speculate about something?

3 Q. Sir, had anybody been in contact

4 with a representative from the Department of

5 Labor on your behalf prior to August 18, 2020?

6 MR. HAINES: If you know. It

7 goes without saying. But that's not

8 what he said in his question, so if

9 you know.

10 A. No.

11 Q. Had anybody from the Haines Law Firm

12 or Mr. Haines himself been in contact with

13 representatives from the Department of Labor,

14 prior to the Department of Labor receiving what

15 has been marked here as Exhibit 7, speaking on

16 your behalf?

17 MR. HAINES: Objection. You're

18 instructed not to answer that

19 question.

20 MR. PODRAZA: And the basis?

21 MR. HAINES: It would require him

22 to disclose attorney/client

23 privilege information.

24 Q. And prior to the Department of Labor

25 receiving what has been marked here as Battle-7,

Page 81

1 C. BATTLE

2 on August 18, 2020, had you or anyone on your

3 behalf had contact with the Department of

4 Justice?

5 A. I already answered that.

6 MR. HAINES: Answer it again.

7 A. No.

8 Q. And no one else on your behalf had

9 contact with the Department of Justice; is that

10 your testimony?

11 MR. HAINES: Is there a question?

12 Q. Did anyone from the Haines Law Firm

13 or Mr. Haines himself have contact with

14 representatives from the Department of Justice,

15 prior to the Department of Labor receiving this

16 document on August 18, 2020?

17 MR. HAINES: Objection. You're

18 instructed not to answer that

19 question. It calls for

20 attorney/client communication, and

21 it's privileged.

22 Q. When the appeal was taken to the

23 Department of Labor, what did you expect them to

24 do?

25 A. Listen to my story.

<p style="text-align: right;">Page 82</p> <p>1 C. BATTLE</p> <p>2 Q. And what action did you hope they</p> <p>3 would take?</p> <p>4 A. I would hope they would overturn the</p> <p>5 nomination process.</p> <p>6 Q. And in doing so, did you believe</p> <p>7 that such action by the Department of Labor</p> <p>8 would put more pressure on the representatives</p> <p>9 of the union who had been indicted by the</p> <p>10 Department of Justice?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you or did it cross your mind,</p> <p>13 at all, that there would be possibly contact</p> <p>14 between the representatives of the Department of</p> <p>15 Labor and the Department of Justice, because of</p> <p>16 the fact that there was an indictment</p> <p>17 outstanding against representatives of Local 98</p> <p>18 and now this election issue?</p> <p>19 A. No, sir.</p> <p>20 Q. By this point, were you aware that</p> <p>21 Mr. Haines was representing that individual who</p> <p>22 had an altercation with Mr. Dougherty on the</p> <p>23 picket line?</p> <p>24 A. I would not know the date that I</p> <p>25 realized that. I just don't know that.</p>	<p style="text-align: right;">Page 84</p> <p>1 C. BATTLE</p> <p>2 since you're not counsel of record</p> <p>3 --</p> <p>4 Q. All right. Sir, what we have before</p> <p>5 you is a collection of the postings from the</p> <p>6 website that appear in the amended complaint of</p> <p>7 Department of Labor, which was just filed</p> <p>8 recently by the Department of Justice. And as</p> <p>9 you can see, some of the postings have like --</p> <p>10 accuses a, quote, Larry, unquote, sodomizing</p> <p>11 Mr. Dougherty's mother.</p> <p>12 Were you aware of that posting?</p> <p>13 A. Which one?</p> <p>14 Q. That's the very first one.</p> <p>15 A. Well, I can tell you this -- no.</p> <p>16 Q. Okay. And then if you go to the</p> <p>17 next one, the next posting refers to</p> <p>18 Mr. Dougherty's daughter as a, quote, carpet</p> <p>19 muncher, end quote.</p> <p>20 Were you aware of that posting?</p> <p>21 A. I might have read it.</p> <p>22 Q. And there's a posting, if you</p> <p>23 continue to the next one that makes a reference</p> <p>24 to a Marita being sodomized by her new lawyer</p> <p>25 boyfriend.</p>
<p style="text-align: right;">Page 83</p> <p>1 C. BATTLE</p> <p>2 Q. Did you consider when you took the</p> <p>3 appeal to the Department of Labor that the</p> <p>4 appeal might help or assist Mr. Haines in his</p> <p>5 representation of that personal injury case?</p> <p>6 A. Absolutely not.</p> <p>7 Q. The Department of Justice has</p> <p>8 attached to their amended complaint from the</p> <p>9 Department of Labor, a copy of our website, the</p> <p>10 website litigation. And in there are examples</p> <p>11 of postings that were on the website, such as,</p> <p>12 quote, Marita Crawford takes it in the butt, end</p> <p>13 quote.</p> <p>14 And I'll show you some of the other postings.</p> <p>15 MR. PODRAZA: Can I have exhibit</p> <p>16 8, please?</p> <p>17 (Anonymous postings is received</p> <p>18 and marked as Battle Exhibit 8 for</p> <p>19 identification, as of this date.)</p> <p>20 MR. HAINES: Was that a question</p> <p>21 or just a statement? I'm not sure</p> <p>22 what that was. I move to strike</p> <p>23 whatever it was, because it was not</p> <p>24 a question.</p> <p>25 MR. PODRAZA: Well, Counsel,</p>	<p style="text-align: right;">Page 85</p> <p>1 C. BATTLE</p> <p>2 Do you see that?</p> <p>3 A. What page?</p> <p>4 Q. It's the third page of Exhibit 8.</p> <p>5 A. Third page?</p> <p>6 Q. Uh-huh.</p> <p>7 A. So the question?</p> <p>8 Q. Were you aware of that posting, sir?</p> <p>9 A. Maybe.</p> <p>10 Q. Did you make any effort to remove</p> <p>11 any of these postings from the website?</p> <p>12 A. Why would I? How could I do it?</p> <p>13 Q. As I understood it, you're the</p> <p>14 admitted creator, payor and administrator of the</p> <p>15 website.</p> <p>16 A. What does that have to do with the</p> <p>17 election?</p> <p>18 MR. HAINES: There's no question.</p> <p>19 He made a statement.</p> <p>20 Q. Were you not the creator, payor and</p> <p>21 administrator of the website?</p> <p>22 A. I'm not answering that.</p> <p>23 MR. PODRAZA: Excuse me. We have</p> <p>24 the court.</p> <p>25 (Whereupon, an off-the-record</p>

<p style="text-align: right;">Page 86</p> <p>1 C. BATTLE</p> <p>2 discussion was held.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 5:41. Off the record.</p> <p>5 (A break was taken.)</p> <p>6 JUDGE MC HUGH: For the record,</p> <p>7 this is Judge McHugh. I'm assigned</p> <p>8 to the case. Counsel reached out to</p> <p>9 chambers, and I've returned their</p> <p>10 phone call at the deposition.</p> <p>11 And I've had a description from</p> <p>12 counsel for defendants as to the</p> <p>13 discovery that they sought. I've</p> <p>14 heard off the record and have a</p> <p>15 sense of what the posture of the</p> <p>16 deposition is at this point. And</p> <p>17 I've also heard a summary from</p> <p>18 counsel for the witness.</p> <p>19 For purposes of the record, this</p> <p>20 is probably already clear from what</p> <p>21 has transpired, the objection is not</p> <p>22 interposed by the Department of</p> <p>23 Labor, but rather from counsel for</p> <p>24 the witness.</p> <p>25 So with respect to the discovery</p>	<p style="text-align: right;">Page 88</p> <p>1 C. BATTLE</p> <p>2 substance of the letter. I</p> <p>3 understand that I can't preclude him</p> <p>4 from answering a question based on</p> <p>5 relevance.</p> <p>6 But Mr. Podraza seems to be of</p> <p>7 the mind that somehow I wrote these</p> <p>8 letters. And in light of that</p> <p>9 representation to the court, his</p> <p>10 question invades the attorney/client</p> <p>11 privilege.</p> <p>12 In addition, your Honor, this</p> <p>13 case, as well as many others,</p> <p>14 involves threats, intimidation of</p> <p>15 union members by Mr. Dougherty, who</p> <p>16 happens to be in the room, for</p> <p>17 reasons -- well, he happens to be in</p> <p>18 the room, listening to this</p> <p>19 deposition.</p> <p>20 Mr. Battle has no reason to begin</p> <p>21 identifying other members of this</p> <p>22 union. It has a long history of</p> <p>23 anonymous complaints made by members</p> <p>24 who are intimidated and threatened</p> <p>25 and fearful for the well-being of</p>
<p style="text-align: right;">Page 87</p> <p>1 C. BATTLE</p> <p>2 in question, there are a series of</p> <p>3 letters that have been identified as</p> <p>4 part of the deposition. They are</p> <p>5 associated with Mr. Battle, who is</p> <p>6 the witness at the deposition, and</p> <p>7 there was an inquiry of counsel for</p> <p>8 the defendant union as to who typed</p> <p>9 the letters, and who was involved in</p> <p>10 the preparation of the letters.</p> <p>11 Would that be a fair summary,</p> <p>12 Mr. Podraza?</p> <p>13 MR. PODRAZA: It would be, Your</p> <p>14 Honor. Yes.</p> <p>15 JUDGE MC HUGH: So with that as</p> <p>16 the proposed discovery, let me ask</p> <p>17 Mr. Haines now to state on the</p> <p>18 record what objections he has or</p> <p>19 what privilege he's asserting.</p> <p>20 Mr. Haines?</p> <p>21 MR. HAINES: Sure. The question</p> <p>22 is irrelevant, given the fact that</p> <p>23 this witness has -- is the only</p> <p>24 signature on the letter, and has,</p> <p>25 heretofore and presently adopted the</p>	<p style="text-align: right;">Page 89</p> <p>1 C. BATTLE</p> <p>2 their families, to include</p> <p>3 Mr. Battle. I don't want</p> <p>4 Mr. Battle, nor does he want to be</p> <p>5 in a position where he's identifying</p> <p>6 people by name, whose identity is</p> <p>7 not relevant to the issues before</p> <p>8 you.</p> <p>9 Who typed the letter is of no</p> <p>10 consequence.</p> <p>11 My position,</p> <p>12 JUDGE MC HUGH: All right. Does</p> <p>13 the Department of Labor have any</p> <p>14 position it wants to take?</p> <p>15 MS. DeBRUICKER: Your Honor, the</p> <p>16 Department of Labor's position is</p> <p>17 that this case is relatively simple.</p> <p>18 The issue is whether the secretary's</p> <p>19 investigation yielded information</p> <p>20 that by a preponderance of the</p> <p>21 evidence shows that there may have</p> <p>22 been interference in the June 2020</p> <p>23 nominations.</p> <p>24 To Mr. Haines's point, there's</p> <p>25 been no question that Mr. Battle</p>

Page 90

1 C. BATTLE
2 stands by his statements, and so --
3 and setting aside the significant
4 exception I take to the implication
5 that the government has done
6 anything untoward, none of this has
7 anything to do with the matter
8 before the court.
9 The government has no objection
10 to the line of questioning. The
11 government is an open book as far as
12 we are concerned.
13 JUDGE MC HUGH: All right.
14 Mr. Podraza, is there anything you
15 want to add?
16 MR. PODRAZA: I just wanted to
17 add, Your Honor, these are very
18 significant letters. These are the
19 protest letter, and it's a
20 third-party, Mr. Haglash, so I don't
21 know how there can be an
22 attorney/client privilege. And if,
23 in fact, there has collaboration --
24 been collaboration, this is
25 information that should be brought

Page 91

1 C. BATTLE
2 to bear to the court in its
3 consideration then, of the merits of
4 the case against Local 98.
5 MR. HAINES: That has nothing to
6 do with who typed the letter, Judge.
7 MR. PODRAZA: If I may, Your
8 Honor, it's not who typed the
9 letter. It's the fact that there's
10 a manufacturing of the evidence in
11 the representations in the letter,
12 that if you look at the letter, it
13 would appear to be Mr. Battle. But
14 by Mr. Battle's own account, it was
15 others, and those others, we
16 believe, have manufactured this
17 claim, which then will ultimately
18 result in the civil action that's
19 before Your Honor, and is relevant
20 to the court's consideration as to
21 the legitimacy of the claims.
22 MR. HAINES: And I'm sorry Your
23 Honor is not here to see the union
24 representatives over Mr. Podraza's
25 shoulder, while this discussion is

Page 92

1 C. BATTLE
2 going on.
3 The original issue was whether
4 they were entitled to know who typed
5 the letter --
6 MR. PODRAZA: No, that's
7 not correct.
8 MR. HAINES: -- now they are
9 whistling a different tune. My
10 position does not change.
11 Mr. Halgash's letter is not
12 before Mr. Battle. Mr. Battle
13 stands by what he said. In the
14 letter, he signed it. He's adopted
15 it. He knows he's responsible for
16 it. Who talked to him about it or
17 who helped compose it, or whether
18 his wife read it, is really
19 irrelevant and an inappropriate
20 invasion into information that these
21 folks don't need, nor should they
22 have.
23 JUDGE MC HUGH: All right. I'm
24 going to go ahead and make a ruling
25 here.

Page 93

1 C. BATTLE
2 First, it's not entirely clear to
3 me that the microcosm of the detail
4 of the preparation of the letter is
5 going to have all of the
6 significance that counsel might
7 think.
8 Having said that, I don't think
9 that there's an actual
10 attorney/client privilege. To that
11 extent, and even if Mr. Battle did
12 confer with counsel, given the
13 history between the parties and the
14 upcoming elections, even if
15 Mr. Battle did consult with counsel,
16 I don't know whether that would, in
17 any way, change the validity of his
18 concerns, or as Ms. DeBruicker say,
19 the validity of the department's
20 investigation.
21 So I think I will permit the
22 inquiry for whatever relevance it
23 may have. To the extent there's
24 obviously a history between
25 Mr. Battle and the union, I assume

Page 94

1 C. BATTLE
2 it's abundantly clear, that
3 everybody involved in the case, that
4 the court would take a very dim view
5 of any kind of threats or
6 intimidation against Mr. Battle or
7 anyone, who else who may be
8 identified as having concerns. I'll
9 take that as a given, but say it on
10 the record for whatever added
11 protective effect Mr. Haines thinks
12 that either Mr. Battle or some other
13 union member or some other
14 individual might be entitled to.
15 So I will overrule the objection,
16 and allow the inquiry to proceed.
17 Is there anything further, Counsel
18 that requires the attention of the
19 court?
20 MR. HAINES: Yes, Judge. Would,
21 Your Honor, direct that this
22 deposition be sealed, so that it is
23 only available to the immediate
24 parties and the witness, and cannot
25 be distributed broadly?

Page 95

1 C. BATTLE
2 JUDGE MC HUGH: Let me hear from
3 the Department of Labor on that.
4 MS. DeBRUICKER: Your Honor, I
5 think the government takes no
6 position.
7 JUDGE MC HUGH: Mr. Podraza, do
8 you have a position?
9 MR. PODRAZA: If I may, Your
10 Honor.
11 JUDGE MC HUGH: I'm inviting you
12 to state your position.
13 MR. PODRAZA: I'm sorry, Your
14 Honor. You're not here in the
15 conference room. I have chirping in
16 my ears from multiple people, so
17 apologize for the loss of train of
18 thought.
19 We don't have any objection
20 because there is no such thing as
21 violence, et cetera, that Mr. Haines
22 is recounting.
23 MR. HAINES: Well, can I show,
24 Your Honor the videotape? You want
25 to open that door, Mr. Podraza? I'm

Page 96

1 C. BATTLE
2 fine with that. I'll take my
3 videotape of Mr. Dougherty to Judge
4 McHugh, and let him see it.
5 MR. PODRAZA: Well, as a mentor
6 of mine, Mr. Richard Sprague, used
7 to say, when you're ahead in the
8 game, you don't continue to argue.
9 And since I will do whatever the
10 court wants to do with the
11 transcript, I don't know if there's
12 really need for more argument.
13 JUDGE MC HUGH: Well, I am going
14 to order that the transcript be
15 sealed, and no one should draw any
16 inference from that, other than I
17 don't see, until such time we get to
18 some actual resolution of
19 the matter, that is of relevance,
20 and I also enter the sealing order.
21 And I'm not going to do it by a
22 written order. We will do it
23 verbally on the transcript, because
24 in the age of social media,
25 all manner of things manage to fly

Page 97

1 C. BATTLE
2 around and create havoc. There's no
3 need for that in any litigation.
4 And so, yes, the deposition
5 transcript will be sealed.
6 Mr. Podraza, do you anticipate
7 any other radioactive areas of
8 inquiry, because believe it or not,
9 I may go home at some point.
10 MR. PODRAZA: Your Honor,
11 actually, it has been a pleasant
12 experience, thus far, in the
13 deposition before this short, bumpy
14 road. I don't anticipate, but in
15 the event there is a disagreement,
16 is it the court's wish then that
17 we -- well, what is the court's
18 wishes?
19 JUDGE MC HUGH: My wish is that
20 as officers of the court, you'd find
21 a reasonable resolution on your own
22 and not call my cell phone later
23 tonight.
24 MR. PODRAZA: That is fair
25 enough, Your Honor. And we will do

<p style="text-align: right;">Page 98</p> <p>1 C. BATTLE</p> <p>2 our best. And unfortunately if</p> <p>3 that's not satisfactory, I guess, we</p> <p>4 can apprise the court and get</p> <p>5 direction then as to how to proceed.</p> <p>6 We do not intend to disturb you</p> <p>7 tonight, Your Honor.</p> <p>8 JUDGE MC HUGH: Let the record</p> <p>9 reflect your tax dollars are still</p> <p>10 at work at 6:58 on an August</p> <p>11 night -- 5:58 on an August night.</p> <p>12 Let me correct that. All right</p> <p>13 then. Counsel proceed.</p> <p>14 MR. PODRAZA: Thank you, Your</p> <p>15 Honor.</p> <p>16 MR. HAINES: Thank you, Your</p> <p>17 Honor.</p> <p>18 (A break was taken.)</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 now 6:15. Back on the video record.</p> <p>21 Q. Mr. Battle, before we had a break</p> <p>22 with the court, which you were present for, we</p> <p>23 were discussing some of the postings on the</p> <p>24 website known as Truth About Your Local. And we</p> <p>25 had reviewed a few, and I believe we had gotten</p>	<p style="text-align: right;">Page 100</p> <p>1 C. BATTLE</p> <p>2 A. I am?</p> <p>3 MR. HAINES: Objection.</p> <p>4 MS. DeBRUICKER: Objection.</p> <p>5 Q. So you said in your state court</p> <p>6 proceeding and pleading, you said you were.</p> <p>7 A. I did?</p> <p>8 Q. Yes.</p> <p>9 A. Okay, if you say so.</p> <p>10 Q. And I'd like to show you then what</p> <p>11 we have marked as -- or will mark as Battle-9.</p> <p>12 (Aboutyourlocal.com screenshots</p> <p>13 is received and marked as Battle</p> <p>14 Exhibit 9 for identification, as of</p> <p>15 this date.)</p> <p>16 Q. Now, what we marked as Battle-9 are</p> <p>17 postings that are on the website</p> <p>18 aboutyourlocal.com. Do you see that, sir, on</p> <p>19 the very top, it says: Aboutyourlocal.com?</p> <p>20 A. These are two of the same local</p> <p>21 websites?</p> <p>22 Q. They are -- I can't answer that</p> <p>23 question. I don't know for sure.</p> <p>24 A. So, but you're saying --</p> <p>25 MR. HAINES: Let him ask the</p>
<p style="text-align: right;">Page 99</p> <p>1 C. BATTLE</p> <p>2 to the third of the postings, where, in part, it</p> <p>3 has that Marita is sodomized by her new lawyer</p> <p>4 boyfriend.</p> <p>5 Do you see that there?</p> <p>6 A. I see it on this page, yes.</p> <p>7 Q. Were you aware of that posting?</p> <p>8 A. No.</p> <p>9 Q. Would it have upset you if someone</p> <p>10 anonymously posted such filthy things about your</p> <p>11 loved ones?</p> <p>12 MR. HAINES: Objection.</p> <p>13 MS. DeBRUICKER: Objection.</p> <p>14 MR. HAINES: You can answer the</p> <p>15 question.</p> <p>16 A. Would it upset me?</p> <p>17 Q. Yes.</p> <p>18 A. Well, no one would probably write</p> <p>19 that about me. So probably, yeah.</p> <p>20 Q. Now, there was a second website that</p> <p>21 was created, is that correct, sir?</p> <p>22 A. I guess.</p> <p>23 Q. Well, you're the creator and payor</p> <p>24 and administrator of the second website,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 101</p> <p>1 C. BATTLE</p> <p>2 question.</p> <p>3 Q. I didn't say you created anything.</p> <p>4 I just said that these are postings on the</p> <p>5 website, aboutyourlocal.com. And, in fact, the</p> <p>6 website itself, you paid for and administered,</p> <p>7 correct? I'm not saying you posted any of this</p> <p>8 stuff. I'm just saying you created the website,</p> <p>9 correct?</p> <p>10 MS. DeBRUICKER: Objection to</p> <p>11 form.</p> <p>12 A. Which one?</p> <p>13 Q. The truth about the union, and also,</p> <p>14 aboutyourlocal.</p> <p>15 A. Uh-uh.</p> <p>16 Q. Neither one?</p> <p>17 A. What was first question?</p> <p>18 MR. HAINES: You can answer the</p> <p>19 first question.</p> <p>20 A. What was the first question?</p> <p>21 Q. Sure. Did you pay for, and are you</p> <p>22 the administrator of the aboutyourlocal.com</p> <p>23 website?</p> <p>24 A. Which one? I'm confused here.</p> <p>25 Q. There's a website, truthaboutyour</p>

Page 102

1 C. BATTLE

2 local, and there's a website about your local.

3 There's two separate ones. Are you the creator,

4 payor and administrator of both?

5 A. No.

6 Q. Which one are you the creator, payor

7 and administrator of?

8 MS. DeBRUICKER: Objection to

9 form.

10 A. I don't understand the question.

11 Q. What is your connection to either of

12 these websites?

13 A. I read them.

14 Q. And that's it? You didn't pay for

15 some of these services to create either one of

16 them?

17 A. I can't recall.

18 Q. Well, on the about your local, if you

19 take a look, there are postings.

20 A. Uh-huh.

21 Q. And you can go through each one, if

22 you'd like. They're of a sexual-type nature,

23 links to mothers and daughters having sex, links

24 to brothers and sisters having sex, links to

25 young children, teens having sex in various

Page 103

1 C. BATTLE

2 capacities, et cetera.

3 Have you made any effort to remove any of

4 these links from that website?

5 A. How would I?

6 Q. You're the administrator --

7 MR. HAINES: The question is yes

8 or no. Either you have or you

9 haven't. If you haven't, the answer

10 --

11 THE WITNESS: Well, I don't know

12 what website he's talking about.

13 A. This one here?

14 Q. That is correct, sir.

15 A. No -- I'm sorry. Ask the question,

16 again.

17 MR. PODRAZA: Can you read back

18 the question, please.

19 (The requested portion of the

20 transcript was read back.)

21 [No answer was heard.]

22 Q. With respect to what had been marked

23 here as Battle-9, have you made any effort to

24 remove the links that appear in the exhibit

25 that's been marked here as Battle-9?

Page 104

1 C. BATTLE

2 A. I would not know how to do that.

3 MR. HAINES: So the answer is no,

4 you did not.

5 A. No.

6 Q. Are you aware that it's a crime to

7 promote and facilitate child pornography?

8 A. Yes.

9 MR. HAINES: Just to be clear,

10 Exhibit 9 is a posting made 60 days

11 ago, right?

12 Q. Before you took the appeal to the

13 Department of Labor, did you have any

14 conversations with Mr. McConnell?

15 A. Before I took the appeal? You asked

16 that already.

17 Q. Did you have any conversations with

18 Mr. McConnell?

19 A. I answered that already.

20 Q. And your answer is?

21 A. Yes.

22 Q. And what was the nature of the

23 contact? What did you discuss?

24 A. I don't remember.

25 Q. I'm sorry?

Page 105

1 C. BATTLE

2 A. I would not remember.

3 Q. Did any representative on your

4 behalf have contact with Mr. McConnell prior to

5 the taking of the appeal to the Department of

6 Labor?

7 A. Representative, no.

8 Q. Did Mr. Haines or his office have

9 contact with Mr. McConnell, prior to the taking

10 of the appeal?

11 MR. HAINES: Objection. That

12 calls for attorney/client

13 communications, which are protected.

14 I instruct you not to answer.

15 Q. In -- when was your first contact

16 with a representative from the Department of

17 Labor?

18 A. I answered this already.

19 Q. And your answer is?

20 A. Look in the transcript.

21 MR. HAINES: Charlie, you got to

22 answer the question. You can't be a

23 smart ass.

24 A. The question was?

25 Q. When was your first contact with a

<p style="text-align: right;">Page 106</p> <p>1 C. BATTLE</p> <p>2 representative from the Department of Labor?</p> <p>3 A. After the nomination process -- I'm</p> <p>4 sorry. After my appeal with the IO was denied.</p> <p>5 Q. And the document that we looked at</p> <p>6 indicated that the Department of Labor received</p> <p>7 your appeal on or about August 18, or actually</p> <p>8 on August 18, 2020. If you look at Battle-7,</p> <p>9 you see the stamp of the Department of Labor.</p> <p>10 Do you see that there?</p> <p>11 A. Battle-7.</p> <p>12 Q. Right. That indicates that your</p> <p>13 appeal paper was received by the Department of</p> <p>14 Labor on August 18, 2020. Do you see the stamp</p> <p>15 up in the top, left corner?</p> <p>16 A. Yeah, uh-huh.</p> <p>17 Q. All right. And how was the document</p> <p>18 delivered to the Department of Labor? Did you</p> <p>19 mail? Did you hand-deliver it? Did you email</p> <p>20 it? What did you do?</p> <p>21 A. No, I gave an in-person statement.</p> <p>22 Q. How was that arranged?</p> <p>23 A. I called them, I believe.</p> <p>24 Q. Did anybody else assist you in</p> <p>25 making contact with the Department of Labor?</p>	<p style="text-align: right;">Page 108</p> <p>1 C. BATTLE</p> <p>2 correct?</p> <p>3 A. I don't recall.</p> <p>4 Q. And your wife attended with you,</p> <p>5 correct?</p> <p>6 A. She attend what?</p> <p>7 Q. She went to the interview with you?</p> <p>8 A. She did?</p> <p>9 Q. I'm asking you. Is that correct?</p> <p>10 MS. DeBRUICKER: Objection to</p> <p>11 form.</p> <p>12 A. I'm not answering that. I don't</p> <p>13 know why you're bringing my wife into this.</p> <p>14 Q. So you had an interview on</p> <p>15 August 18, 2020 at the time that you delivered</p> <p>16 your appeal papers to the Department of Labor,</p> <p>17 correct?</p> <p>18 A. I don't recall that, no.</p> <p>19 Q. Well, according to the Department of</p> <p>20 Labor's Exhibit DOL Local 98, 00287, your</p> <p>21 initial interview was on August 18th, 2020.</p> <p>22 That's the same date of the marking on the</p> <p>23 appeal paper, correct?</p> <p>24 A. Which appeal paper? The one --</p> <p>25 Battle-7?</p>
<p style="text-align: right;">Page 107</p> <p>1 C. BATTLE</p> <p>2 A. Not that I recall.</p> <p>3 Q. Who did you call?</p> <p>4 A. The Department of Labor.</p> <p>5 Q. Just a general number?</p> <p>6 A. Yes.</p> <p>7 Q. What did you say to them?</p> <p>8 A. I wanted to file an appeal -- I</p> <p>9 don't remember. It was a year ago. Probably</p> <p>10 would have said, I want to file appeal on the</p> <p>11 election or the nomination process.</p> <p>12 Q. And what did they say to you?</p> <p>13 A. I can't recall.</p> <p>14 Q. And did you literally walk down to</p> <p>15 the Department of Labor and hand in documents,</p> <p>16 or what did you do to -- did you mail --</p> <p>17 A. No. I just tried -- from what I</p> <p>18 remember, I tried to set an appointment to tell</p> <p>19 my story.</p> <p>20 Q. And did -- how close in time did you</p> <p>21 go to tell your story to DOL, to the Department</p> <p>22 of Labor receiving your appeal on August 18,</p> <p>23 2020?</p> <p>24 A. I can't recall.</p> <p>25 Q. In fact, it was that same day,</p>	<p style="text-align: right;">Page 109</p> <p>1 C. BATTLE</p> <p>2 Q. Exhibit 7, yes.</p> <p>3 A. Yeah, I don't remember that paper.</p> <p>4 Q. But the same date, correct, August</p> <p>5 18, 2020?</p> <p>6 A. That's what it says.</p> <p>7 Q. And were you accompanied by your</p> <p>8 wife?</p> <p>9 A. Again, I'm not going to answer any</p> <p>10 question about my family.</p> <p>11 MR. PODRAZA: Make sure we mark</p> <p>12 that then.</p> <p>13 Q. How many meetings after that first</p> <p>14 meeting did you have with representatives of the</p> <p>15 Department of Labor?</p> <p>16 A. Maybe two.</p> <p>17 Q. Well, you tell me. I was not there.</p> <p>18 You went on August -- at least, according to the</p> <p>19 DOL, you went on August 18, 2020, for an</p> <p>20 interview, the day you handed in your appeal</p> <p>21 papers. And we do know that there was a time</p> <p>22 that you signed a statement, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Are those the only two times that</p> <p>25 you spoke with representatives from the</p>

<p style="text-align: right;">Page 110</p> <p>1 C. BATTLE</p> <p>2 Department of Labor?</p> <p>3 A. Spoke with them or phoned or</p> <p>4 anything?</p> <p>5 Q. Anything.</p> <p>6 A. No.</p> <p>7 Q. Walk me through it then. When is</p> <p>8 the next time, after you had your first</p> <p>9 interview, that you had contact with the</p> <p>10 Department of Labor?</p> <p>11 A. I think I had to come in, read the</p> <p>12 statement, sign it, make sure everything was</p> <p>13 pretty accurate. And I may have been in touch</p> <p>14 to find out how things were progressing, and</p> <p>15 that that would have been the extent of that.</p> <p>16 Q. Who accompanied you each of the</p> <p>17 times that you went personally to the Department</p> <p>18 of Labor?</p> <p>19 A. No one.</p> <p>20 Q. You just went by yourself?</p> <p>21 A. Yeah.</p> <p>22 Q. Did Mr. Haines ever go to a meeting</p> <p>23 with you --</p> <p>24 A. No.</p> <p>25 Q. -- at the time DOL?</p>	<p style="text-align: right;">Page 112</p> <p>1 C. BATTLE</p> <p>2 --</p> <p>3 A. I'm not answering that.</p> <p>4 Q. -- to speak with the Department of</p> <p>5 Labor?</p> <p>6 A. I'm not answering that.</p> <p>7 Q. But you don't deny that your wife</p> <p>8 did go and speak with a representative from the</p> <p>9 Department of Labor, after you took your appeal,</p> <p>10 correct?</p> <p>11 A. I'm not answering that.</p> <p>12 Q. Walk me through the other contact</p> <p>13 you had with the Department of Labor.</p> <p>14 A. I just walked you through every one.</p> <p>15 I wanted to see how the case was progressing,</p> <p>16 and that's it.</p> <p>17 Q. So one in person or two in-persons?</p> <p>18 A. Two definitely.</p> <p>19 Q. Two in-persons?</p> <p>20 A. Yes.</p> <p>21 Q. And then telephone calls?</p> <p>22 A. Yes.</p> <p>23 Q. Who did you speak with?</p> <p>24 A. Angela Menges.</p> <p>25 Q. How many times do you believe you</p>
<p style="text-align: right;">Page 111</p> <p>1 C. BATTLE</p> <p>2 A. No.</p> <p>3 Q. Did Mr. Haines have any contact with</p> <p>4 the Department of Labor on your behalf, at that</p> <p>5 time?</p> <p>6 MR. HAINES: Objection. That</p> <p>7 calls for attorney/client</p> <p>8 communications that are protected</p> <p>9 and are privileged. I instruct you</p> <p>10 not to answer.</p> <p>11 Q. Was a statement written up for your</p> <p>12 wife to sign?</p> <p>13 A. I'm not answering that.</p> <p>14 Q. Do you know whether a statement was</p> <p>15 written up for your wife to sign?</p> <p>16 A. I'm not answering that.</p> <p>17 Q. What did your wife know about the</p> <p>18 June 9, 2020, nomination proceeding that would</p> <p>19 have --</p> <p>20 A. I'm not answering that.</p> <p>21 Q. -- with the Department of Labor?</p> <p>22 A. I'm not answering that.</p> <p>23 Q. As far as you know, what did your</p> <p>24 wife know about the June 9, 2020, nomination</p> <p>25 proceeding or any of the events leading up to it</p>	<p style="text-align: right;">Page 113</p> <p>1 C. BATTLE</p> <p>2 spoke by phone with Angela Menges before signing</p> <p>3 your statement?</p> <p>4 A. How many times did I talk to her on</p> <p>5 the phone before I signed my statement?</p> <p>6 Q. Uh-huh.</p> <p>7 A. I don't know. I don't recall.</p> <p>8 Q. More than five times?</p> <p>9 A. No.</p> <p>10 Q. So more than two?</p> <p>11 A. No. Probably one, I would say.</p> <p>12 Q. Did you have contact information for</p> <p>13 Ms. Menges, or did she call you?</p> <p>14 A. No. I had contact information for</p> <p>15 her.</p> <p>16 Q. Did you have her cell phone number,</p> <p>17 or was it just her office number?</p> <p>18 A. It was just her business card, so</p> <p>19 whatever was on there.</p> <p>20 Q. Did you voluntarily agree to</p> <p>21 interview with the Department of Labor, or were</p> <p>22 you subpoenaed?</p> <p>23 A. Voluntarily.</p> <p>24 Q. I'd like to then talk about your</p> <p>25 Department of Labor statement, and we will mark</p>

<p style="text-align: right;">Page 114</p> <p>1 C. BATTLE</p> <p>2 that as Exhibit 10 or Battle-10, really.</p> <p>3 (Statement dated 10/13/20 is</p> <p>4 received and marked as Battle</p> <p>5 Exhibit 10 for identification, as of</p> <p>6 this date.)</p> <p>7 Q. Before we get into some substantive</p> <p>8 questions that I may have, your statement is</p> <p>9 three pages, single-typed, correct?</p> <p>10 A. I don't know what single-type is.</p> <p>11 I'm a construction worker.</p> <p>12 Q. Single type is when you return it,</p> <p>13 it's just one space between --</p> <p>14 MR. HAINES: We can stipulate to</p> <p>15 that. We don't have to spend time</p> <p>16 asking Charlie Battle about it.</p> <p>17 Q. Did you type this, sir?</p> <p>18 A. No.</p> <p>19 Q. All right. How did this document</p> <p>20 get produced, as far as you know?</p> <p>21 A. I gave a statement and someone</p> <p>22 produced it.</p> <p>23 Q. In your statement, did the</p> <p>24 representative write down word for word what you</p> <p>25 were saying and just type it up?</p>	<p style="text-align: right;">Page 116</p> <p>1 C. BATTLE</p> <p>2 MS. DeBRUICKER: Objection to</p> <p>3 form.</p> <p>4 Q. Now, yours is a statement subject to</p> <p>5 perjury. Do you recognize that on the last page</p> <p>6 of Battle-10?</p> <p>7 MR. HAINES: Objection to the</p> <p>8 form of that question.</p> <p>9 Q. Do you see where it says: I declare</p> <p>10 under penalty of perjury that the foregoing</p> <p>11 statement consisting of three pages, each of</p> <p>12 which I initialed, is true and accurate?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And you read that language at the</p> <p>15 time that you signed on October 13, 2020,</p> <p>16 correct?</p> <p>17 A. I don't know if that was the date,</p> <p>18 but I did read the statement I gave and signed</p> <p>19 off on it.</p> <p>20 Q. And what did the representatives</p> <p>21 from the Department of Labor say to you was what</p> <p>22 they were going to use it for?</p> <p>23 A. They didn't say.</p> <p>24 Q. They just took a statement from you</p> <p>25 and made no indication of what you could expect</p>
<p style="text-align: right;">Page 115</p> <p>1 C. BATTLE</p> <p>2 A. I don't know what she wrote down. I</p> <p>3 don't know that.</p> <p>4 Q. I'm asking you: Is this what you</p> <p>5 dictated?</p> <p>6 A. I could not tell you that. I could</p> <p>7 not remember word for word what I said over a</p> <p>8 year ago.</p> <p>9 Q. Well, when you look at the document,</p> <p>10 are those the words that you told Ms. Menges?</p> <p>11 A. This is what I signed off on,</p> <p>12 correct.</p> <p>13 Q. Well, Mr. McConnell explained to us</p> <p>14 that he went to the interview, representatives</p> <p>15 for the Department of Labor took notes. They</p> <p>16 then put together a statement and had him come</p> <p>17 in to review it and sign it, if you wanted to.</p> <p>18 Was that the same process that you had?</p> <p>19 A. Yes.</p> <p>20 Q. So you gave information at an</p> <p>21 interview to the representative. And then at</p> <p>22 some point, they called you in to have -- and</p> <p>23 gave you then this typed-up document for you to</p> <p>24 review, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 117</p> <p>1 C. BATTLE</p> <p>2 the next events to be?</p> <p>3 A. No, uh-uh.</p> <p>4 Q. You're sure that the representatives</p> <p>5 didn't suggest to you that your statement would</p> <p>6 be used to bring a civil action against Local 98</p> <p>7 for the June 9, 2020, nomination proceeding?</p> <p>8 A. No. They didn't tell me that.</p> <p>9 MS. DeBRUICKER: Objection to</p> <p>10 form.</p> <p>11 Q. They didn't tell you, that</p> <p>12 representatives of the Department of Labor</p> <p>13 didn't suggest to you that your statement might</p> <p>14 be used by other government officials to</p> <p>15 continue their investigation of Local 98?</p> <p>16 A. No, sir.</p> <p>17 Q. When you went and signed the</p> <p>18 statement, did you go -- you went to the</p> <p>19 Department of Labor premises, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Was it a weekend day?</p> <p>22 A. I don't recall.</p> <p>23 Q. How long were you at the Department</p> <p>24 of Labor before you signed the statement?</p> <p>25 A. So you're asking -- when I read the</p>

<p style="text-align: right;">Page 118</p> <p>1 C. BATTLE</p> <p>2 statement and signed it, how long was I there?</p> <p>3 Q. Sure.</p> <p>4 A. Maybe a half hour, maybe.</p> <p>5 Q. Was anybody present with you while</p> <p>6 you were reviewing the statement?</p> <p>7 A. Did anyone go with me personally, is</p> <p>8 that what you're asking?</p> <p>9 Q. Well, we will do that first. Did</p> <p>10 anyone accompany you -- I thought you we already</p> <p>11 covered that, but --</p> <p>12 A. No.</p> <p>13 Q. Okay. And when you were at the</p> <p>14 Department of Labor, where were you on the</p> <p>15 premises, to take a look at the statement? In</p> <p>16 other words, were you in a conference room?</p> <p>17 Were you in an office? Were you just in a lobby</p> <p>18 area? Where were you?</p> <p>19 A. When I went to sign, I was in an</p> <p>20 office.</p> <p>21 Q. And was that the Department of</p> <p>22 Labor's representative's office?</p> <p>23 A. I assume so.</p> <p>24 Q. And was anybody present with you at</p> <p>25 the time that you were reviewing the document?</p>	<p style="text-align: right;">Page 120</p> <p>1 C. BATTLE</p> <p>2 Q. So you did not know -- strike that.</p> <p>3 You're just assuming that he would be</p> <p>4 involved or contacted by DOL?</p> <p>5 A. No, I didn't assume anything.</p> <p>6 Q. Well, I thought you just said that</p> <p>7 you believed that McConnell was going to be</p> <p>8 giving a statement? Is that just conjecture?</p> <p>9 A. I knew it was going to rain today.</p> <p>10 No. I didn't know what was going to go on with</p> <p>11 Tim McConnell.</p> <p>12 Q. Didn't you speak with Mr. McConnell</p> <p>13 between the time you signed your statement and</p> <p>14 before he signed his statement?</p> <p>15 A. I don't recall that.</p> <p>16 Q. Did you tell Mr. McConnell the</p> <p>17 substance of your statement and what you were</p> <p>18 generally saying in your statement? In order</p> <p>19 words, you kind of summarized your statement for</p> <p>20 Mr. McConnell before he came in and signed his?</p> <p>21 MS. DeBRUICKER: Objection to</p> <p>22 form.</p> <p>23 A. I don't recall that.</p> <p>24 Q. Did anyone else, as far as you know,</p> <p>25 give a statement to the Department of Labor, in</p>
<p style="text-align: right;">Page 119</p> <p>1 C. BATTLE</p> <p>2 A. Yes.</p> <p>3 Q. Who was with you?</p> <p>4 A. Megan Underwood and Angela Menges.</p> <p>5 Q. So both representatives?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And were they there for the whole</p> <p>8 time, from the beginning to the end?</p> <p>9 A. Yes.</p> <p>10 Q. Did either representative from the</p> <p>11 Department of Labor indicate if others were also</p> <p>12 going to be giving statements, in addition to</p> <p>13 you?</p> <p>14 A. No, they didn't tell me that.</p> <p>15 Q. You had conversations with</p> <p>16 Mr. McConnell, though, and you knew he was going</p> <p>17 to be giving a statement, correct?</p> <p>18 A. I assumed he would be, yes.</p> <p>19 Q. Why did you assume that?</p> <p>20 A. Just from the treatment we received</p> <p>21 from our Local.</p> <p>22 Q. How did you know that Mr. McConnell</p> <p>23 had actually had contact with the Department of</p> <p>24 Labor?</p> <p>25 A. I didn't.</p>	<p style="text-align: right;">Page 121</p> <p>1 C. BATTLE</p> <p>2 this matter of your appeal?</p> <p>3 A. Yes.</p> <p>4 Q. And who else?</p> <p>5 A. Philip Borthwick.</p> <p>6 Q. And when did you become aware that</p> <p>7 Mr. Borthwick was speaking with the Department</p> <p>8 of Labor?</p> <p>9 A. I don't recall.</p> <p>10 Q. Was it prior to your signing of your</p> <p>11 statement with the DOL?</p> <p>12 A. Yes.</p> <p>13 Q. And how did you become aware? Did</p> <p>14 you speak with him?</p> <p>15 A. Yes.</p> <p>16 Q. And tell me the substance of the</p> <p>17 conversation.</p> <p>18 A. I don't recall.</p> <p>19 Q. Did you indicate to Mr. Borthwick</p> <p>20 what you were generally saying to the Department</p> <p>21 of Labor?</p> <p>22 A. I wouldn't have to, so no.</p> <p>23 Q. Did you encourage Mr. Borthwick to</p> <p>24 tell the Department of Labor, or words to the</p> <p>25 effect, that the nomination process was tainted</p>

Page 122

1 C. BATTLE

2 by intimidation, et cetera?

3 A. No.

4 Q. Any other aspects of the

5 conversation you can remember?

6 A. No.

7 Q. Was it by cell phone? Was it in

8 person?

9 A. Yeah, I don't remember.

10 Q. Looking at the statement, the very

11 first page, page 1 of 3 --

12 MR. HAINES: 408?

13 MR. PODRAZA: Correct.

14 Q. The statement reads, quote: I was

15 going to run for president on a slate with

16 Timothy McConnell and Michael Coppinger, and it

17 continues. Do you see the words there?

18 A. I do.

19 Q. Mr. McConnell said he never would

20 have campaigned with you. He would have

21 campaigned independently. Why did you

22 represent --

23 A. So to clear that up --

24 MR. HAINES: Wait. Let him ask

25 the question.

Page 123

1 C. BATTLE

2 A. I'm sorry.

3 Q. Why would you tell the Department of

4 Labor that you were going to be running on a

5 slate with McConnell and Coppinger, when

6 McConnell denies that he ever would have

7 considered running on the slate with you?

8 MS. DeBRUICKER: Objection.

9 MR. HAINES: That's two different

10 questions. You want to break it

11 down?

12 Q. Why did you tell the Department of

13 Labor that you were part of a slate with

14 McConnell and Coppinger, when McConnell denies

15 he ever would have run with you?

16 MS. DeBRUICKER: Objection.

17 MR. HAINES: I object. I'm not

18 going to let him answer that

19 question because you have

20 misrepresented what he said. You're

21 not going to do that, and you can

22 call McHugh.

23 Q. Are you aware that McConnell has

24 specifically denied being part of a slate with

25 you?

Page 124

1 C. BATTLE

2 A. Yes.

3 Q. Why would you tell the Department of

4 Labor then that he was on the slate with you?

5 MR. HAINES: Objection. Do not

6 answer that question --

7 MS. DeBRUICKER: Objection to

8 form.

9 MR. HAINES: -- goddammit.

10 You're not going to do that. That's

11 not what he said.

12 Q. Were you aware McConnell said that

13 he was not going to run on a campaign with you,

14 prior to signing this statement?

15 MS. DeBRUICKER: Objection.

16 Asked and answered.

17 Q. On what basis then -- well, answer

18 my question. Were you aware that McConnell

19 represented that he would not be running as a

20 candidate with you, prior to signing this

21 statement by DOL?

22 MS. DeBRUICKER: Objection.

23 Asked and answered.

24 MR. HAINES: Yes, asked and

25 answered. He said that.

Page 125

1 C. BATTLE

2 Q. You can answer.

3 MR. HAINES: No, he can't.

4 MR. PODRAZA: Excuse me. He did

5 not answer it.

6 MR. HAINES: You're badgering

7 him. He answered the question. If

8 you don't remember it, then ask the

9 court reporter to read it back.

10 MR. PODRAZA: Fine. Let's go

11 back and let's go through all of the

12 questions, please, on this, and

13 let's see what he said about whether

14 he knew that McConnell denied being

15 part of a slate with him. And we

16 will clear up whether you've

17 answered that or not.

18 (The requested portion of the

19 transcript was read back.)

20 Q. And my question is: Were you aware

21 of that prior to signing this statement with

22 DOL?

23 MR. HAINES: He wants to know --

24 yes, he can answer that question.

25 He changed the question, so you can

Page 126

1 C. BATTLE

2 answer that one.

3 A. So was I aware --

4 Q. That McConnell denies ever being

5 willing to participate on a slate with you in

6 running in the election?

7 A. No.

8 Q. No, what? Did you know that prior

9 to signing this --

10 A. I don't know --

11 Q. -- statement with the DOL?

12 A. -- that question.

13 MR. PODRAZA: Can you go back to

14 his testimony where he said --

15 A. You said "ever." I'm not aware of

16 that, that he was never going to run on a slate

17 of that? No, I'm not aware.

18 Q. Are you aware McConnell denies he

19 was going to run on the slate with you?

20 A. Yes.

21 Q. And were you aware of that at the

22 time you were signing this DOL statement?

23 A. So I probably skimmed through it,

24 but I would have known, yes.

25 Q. And yet you don't correct this part

Page 127

1 C. BATTLE

2 of the DOL statement, do you?

3 MR. HAINES: Objection. You are

4 suggesting -- you're inferring that

5 there's a misrepresentation here.

6 You're not going to misstate things

7 to him. What he said was, I was

8 going to run for president on a

9 slate with Timothy McConnell and

10 Michael Coppinger. He said, I was

11 going to run.

12 He didn't say there was a slate.

13 He said, I was going to run with

14 them. So why don't you ask him what

15 happened?

16 Q. And you're aware that prior to

17 signing this DOL statement, that Mr. McConnell

18 denied that he was ever going to run on the

19 slate with you --

20 MR. HAINES: Okay. We are not --

21 MS. DeBRUICKER: Objection to

22 form.

23 MR. HAINES: -- doing this. Joe,

24 we are not doing this. Okay.

25 You're not going to keep badgering

Page 128

1 C. BATTLE

2 him and you're not going to

3 misrepresent what he said. If you

4 want to know what he said, ask him.

5 If you want to know what he said --

6 MR. PODRAZA: Cliff, I'm a

7 patient man. I have four children.

8 I try to be patient. And I think at

9 this point --

10 MR. HAINES: I have four

11 children, too, and I'm not. I'm not

12 patient with lawyers who abuse their

13 power and their authority. And

14 that's what you're doing.

15 If you want to know what the

16 circumstances were, ask him.

17 MR. PODRAZA: Well, I think we

18 will take this up with Judge McHugh.

19 I want to know why that

20 representation is being made here,

21 despite you're knowing McConnell

22 denied that he was going to run on a

23 slate with you.

24 MR. HAINES: Okay. That's what

25 he wants to know. Explain to him.

Page 129

1 C. BATTLE

2 Now he opened the door to you

3 explaining to him the situation with

4 the slate.

5 A. Okay. So this was kind of a

6 preliminary thing. Timmy and I were not in

7 touch a whole lot before this was going to

8 happen. I didn't even know Tim before any of

9 this was going to play out. I assumed he was

10 going to run for e board, Mike Coppinger was

11 going to e board. I was going to run for

12 president. And we were all talking, and I

13 assumed we were going to run under the same

14 slate. So it was an assumption --

15 Q. But prior to the signing of this

16 statement --

17 MR. HAINES: Let him finish

18 answering the question. He has not

19 finished.

20 A. So the reason that this never came

21 about is because those two fellows were

22 intimidated out of this race. They were

23 threatened and intimidated. That's the bottom

24 line.

25 Q. And what is your understanding as to


<p style="text-align: right;">Page 130</p> <p>1 C. BATTLE</p> <p>2 why Mr. McConnell denies he was going to run on</p> <p>3 the slate with you?</p> <p>4 A. Because we never discussed it.</p> <p>5 Q. Did you advise the DOL</p> <p>6 representatives that Mr. -- that you're aware</p> <p>7 that Mr. McConnell denies he was going to run on</p> <p>8 the slate --</p> <p>9 A. I was never asked the question.</p> <p>10 Q. You continue on in the next</p> <p>11 paragraph: I have stood up during membership</p> <p>12 meetings and said some hard words for business</p> <p>13 manager John Dougherty.</p> <p>14 Did I read that accurately?</p> <p>15 A. What do you consider hard words?</p> <p>16 MR. HAINES: Charlie, answer his</p> <p>17 question.</p> <p>18 A. No, I don't agree with that. No.</p> <p>19 Q. Did you advise the DOL</p> <p>20 representatives October 13th, 2020, that you</p> <p>21 disagree with those representations?</p> <p>22 A. No, uh-uh.</p> <p>23 Q. If you turn to the next page of your</p> <p>24 statement, you say on June 7, 2020, the Sunday</p> <p>25 before the nomination meeting: I learned that</p>	<p style="text-align: right;">Page 132</p> <p>1 C. BATTLE</p> <p>2 before nominations.</p> <p>3 Q. On June 9, 2020, after you left the</p> <p>4 union hall, where did you go?</p> <p>5 A. Home.</p> <p>6 Q. You didn't go to Kelly's Bar?</p> <p>7 A. Oh, my God. That's funny. Where is</p> <p>8 Kelly's Bar?</p> <p>9 Q. I'm asking you, sir.</p> <p>10 A. I'm asking you. I don't know what</p> <p>11 that is. What is Kelly's Bar?</p> <p>12 Q. Have you ever been to a Kelly's or</p> <p>13 Kelliann's Bar?</p> <p>14 A. Have I ever been there? Yes.</p> <p>15 Q. Where is that located?</p> <p>16 A. Spring Garden Street.</p> <p>17 Q. Is that near the union hall?</p> <p>18 A. Yes.</p> <p>19 Q. Are you sure you didn't go there</p> <p>20 after handing in your nomination papers?</p> <p>21 A. Am I sure I didn't go? I'm positive</p> <p>22 I didn't go.</p> <p>23 Q. Did you stay at the Kelliann's Bar</p> <p>24 while the 7 p.m. nominations were happening?</p> <p>25 MS. DeBRUICKER: Objection to</p>
<p style="text-align: right;">Page 131</p> <p>1 C. BATTLE</p> <p>2 McConnell and Coppinger, my intended running</p> <p>3 mates, were not going to run for office.</p> <p>4 Have I read that accurately?</p> <p>5 A. Yes.</p> <p>6 Q. And am I correct that June 7, 2020</p> <p>7 is the date that Mr. Bark came to your home?</p> <p>8 A. Is that a Sunday?</p> <p>9 Q. It is.</p> <p>10 A. Yeah, I believe that was the day he</p> <p>11 showed up, yes.</p> <p>12 Q. And that date sticks in your mind</p> <p>13 because of Mr. Bark?</p> <p>14 A. That date doesn't stick in my mind,</p> <p>15 at all.</p> <p>16 Q. Well, would it help, the fact that</p> <p>17 Mr. Bark had come to your home on that date, and</p> <p>18 then you're getting the call from Mr. McConnell?</p> <p>19 A. No.</p> <p>20 Q. No? Then why do you give the date</p> <p>21 of June 7, 2020, the Sunday?</p> <p>22 A. That would be the date that I had a</p> <p>23 conversation with Tim on the phone. He told me</p> <p>24 he was out. And that would be the day Robert</p> <p>25 Bark showed up at my house, that was the Sunday</p>	<p style="text-align: right;">Page 133</p> <p>1 C. BATTLE</p> <p>2 form.</p> <p>3 A. That's a stupid question.</p> <p>4 MR. HAINES: Answer it.</p> <p>5 A. No.</p> <p>6 Q. Were you accompanied by anybody at</p> <p>7 the Kelliann's Bar on June 9, 2020?</p> <p>8 A. No.</p> <p>9 Q. Is it your testimony that you never</p> <p>10 went to Kelliann's Bar on June 9, 2020?</p> <p>11 A. That's my testimony.</p> <p>12 Q. Did you ever ask the representatives</p> <p>13 from the DOL whether you could handwrite your</p> <p>14 statement?</p> <p>15 A. Whether I could handwrite? No, I</p> <p>16 did not ask that.</p> <p>17 Q. Did they ever make that offer to</p> <p>18 you?</p> <p>19 A. No, sir.</p> <p>20 MR. PODRAZA: We kind of</p> <p>21 agreed -- it's seven o'clock. I'm</p> <p>22 probably going to have maybe a</p> <p>23 couple of more hours, and you've got</p> <p>24 to get your questions done. Do you</p> <p>25 want to stop here, and we will pick</p>

<p style="text-align: right;">Page 134</p> <p>1 C. BATTLE</p> <p>2 it up on the next date, and you can</p> <p>3 talk to him?</p> <p>4 MR. HAINES: That's fine with me.</p> <p>5 Are you all right with that? This</p> <p>6 is your case.</p> <p>7 MS. DeBRUICKER: I'm fine. Well,</p> <p>8 right now, it's his deposition.</p> <p>9 MR. HAINES: Yeah, I know, it is</p> <p>10 his deposition.</p> <p>11 MS. DeBRUICKER: I think it makes</p> <p>12 sense to conclude sometime soon.</p> <p>13 MR. PODRAZA: This is a logical</p> <p>14 break.</p> <p>15 (Continued on the next page to</p> <p>16 include jurat.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 136</p> <p>1</p> <p>2 I N D E X</p> <p>3 WITNESS PAGE</p> <p>4 CHARLES BATTLE</p> <p>5 By MR. PRODRAZA 5</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 BATTLE</p> <p>10 FOR IDENT. DESCRIPTION PAGE</p> <p>11 Exhibit 1 Notice dated 5/18/20 19</p> <p>12 Exhibit 2 Letter to DOL dated June 6, 21</p> <p>13 2020</p> <p>14 Exhibit 3 Protest letter dated 34</p> <p>15 6/16/20</p> <p>16 Exhibit 4 Letter dated 6/15/20 49</p> <p>17 Exhibit 5 Letter dated 7/28/20 62</p> <p>18 Exhibit 6 Letter dated 7/31/20 72</p> <p>19 Exhibit 7 Hand-written document 73</p> <p>20 Exhibit 8 Anonymous postings 83</p> <p>21 Exhibit 9 Aboutyourlocal.com 100</p> <p>22 screenshots</p> <p>23</p> <p>24 Exhibit 10 Statement dated 10/13/20 114</p> <p>25</p>
<p style="text-align: right;">Page 135</p> <p>1</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 now 6:52. This concludes media unit</p> <p>4 Number 2 of today's deposition.</p> <p>5</p> <p>6 (Time noted: 6:52 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 137</p> <p>1</p> <p>2 REQUEST FOR DOCUMENTS</p> <p>3</p> <p>4 PAGE LINE</p> <p>5 53 3</p> <p>6</p> <p>7 MARKED FOR RULING</p> <p>8</p> <p>9 PAGE LINE</p> <p>10 22 15</p> <p>11 24 7</p> <p>12 24 10</p> <p>13 25 2</p> <p>14 28 6</p> <p>15 31 12</p> <p>16 31 22</p> <p>17 32 19</p> <p>18 33 3</p> <p>19 34 19</p> <p>20 36 20</p> <p>21 38 20</p> <p>22 40 9</p> <p>23 40 16</p> <p>24 41 18</p> <p>25 42 9</p> <p>26 43 2</p> <p>27 45 14</p>

Page 138

1
2 45 22
3 56 13
4 58 2
5 58 2
6 78 18
7 80 11
8 81 12
9 105 8
10 108 7
11 109 7
12 111 3
13 111 11
14 111 14
15 111 17
16 111 23
17 112 7
18 123 12
19 124 3
20
21
22
23
24
25

Page 139

1
2 **CERTIFICATION**
3 I, CAROLYN C. CRESCIO, a Notary
4 Public, within and for the State of
5 Pennsylvania, do hereby certify that the
6 foregoing witness, CHARLES BATTLE, was duly
7 sworn on the date indicated, and that the
8 foregoing is a true and accurate transcription
9 of my stenographic notes.
10 I further certify that I am not
11 related to any of the parties to this action by
12 blood or marriage; and that I am in no way
13 interested in the outcome of this matter.
14 IN WITNESS WHEREOF, I have hereunto
15 set my hand this 12th day of August, 2021.
16
17
18 
19 CAROLYN C. CRESCIO
20
21
22
23
24
25

Page 140

1 Clifford Haines, Esquire
2 chaines@haines-law.com
3 August 20, 2021
4 RE: Martin J. Walsh v. Local 98
5 8/12/2021, Charles Battle (#4737617)
6 The above-referenced transcript is available for
7 review.
8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.
12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-midatlantic@veritext.com
16
17 Return completed errata within 30 days from
18 receipt of testimony.
19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.
21
22 Yours,
23 Veritext Legal Solutions
24
25

Page 141

1 Martin J. Walsh v. Local 98
2 Charles Battle (#4737617)
3 **E R R A T A S H E E T**
4 PAGE____ LINE____ CHANGE_____
5 _____
6 REASON_____
7 PAGE____ LINE____ CHANGE_____
8 _____
9 REASON_____
10 PAGE____ LINE____ CHANGE_____
11 _____
12 REASON_____
13 PAGE____ LINE____ CHANGE_____
14 _____
15 REASON_____
16 PAGE____ LINE____ CHANGE_____
17 _____
18 REASON_____
19 PAGE____ LINE____ CHANGE_____
20 _____
21 REASON_____
22 _____
23 _____
24 Charles Battle Date
25

Page 142

1 Martin J. Walsh v. Local 98

2 Charles Battle (#4737617)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Charles Battle, do hereby declare that I

5 have read the foregoing transcript, I have made any

6 corrections, additions, or changes I deemed necessary as

7 noted above to be appended hereto, and that the same is

8 a true, correct and complete transcript of the testimony

9 given by me.

10

11 _____

12 Charles Battle Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16

17

18

19 _____

20 NOTARY PUBLIC

21

22

23

24

25

37 (Page 142)

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 - - -

4
5 MARTIN J. WALSH, : CIVIL ACTION
6 Secretary of Labor, :
7 United States Department :
8 of Labor, : NO.
9 Plaintiff, : 2:21-cv-00096
10 :
11 :

12 vs. :
13 :
14 :

15 LOCAL 98, INTERNATIONAL :
16 BROTHERHOOD OF :
17 ELECTRICAL WORKERS, :
18 Defendant. :
19 :
20 :

21 - - -

22 August 26, 2021

23 Day 2

24 - - -

25 Videotaped deposition of CHARLES
26 BATTLE, taken at the offices of Lamb McErlane,
27 One South Broad Street, Suite 1500,
28 Philadelphia, PA 19107, beginning at 3:45 p.m.,
29 before Paulette B. Cox, a Court Reporter and a
30 Notary Public in and for the Commonwealth of
31 Pennsylvania.

32 - - -

33 VERITEXT LEGAL SOLUTIONS, LLC
34 MID-ATLANTIC REGION
35 1801 Market Street - Suite 1800
36 Philadelphia, Pennsylvania 19103

<p style="text-align: right;">Page 145</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 UNITED STATES DEPARTMENT OF JUSTICE UNITED STATES ATTORNEY'S OFFICE</p> <p>4 BY: LAUREN DeBUICKER, ESQ. By: ANNA LAURA BENNETT, ESQ.</p> <p>5 Eastern District of Pennsylvania 615 Chestnut Street, Suite 1250 6 Philadelphia, PA 19106 215-861-8200</p> <p>7 Lauren.DeBruicker@usdoj.gov Representing the Plaintiff, Department of Labor</p> <p>8</p> <p>9 LAW OFFICES OF CLIFFORD HAINES BY: CLIFFORD E. HAINES, ESQ. The Widener Building, 5th Floor</p> <p>10 1339 Chestnut Street Philadelphia, PA 19107</p> <p>11 215-246-2200 Info@haines-law.com</p> <p>12 Representing the Plaintiff, Charles Battle</p> <p>13</p> <p>14 LAMB McERLANE, PC BY: JOSEPH R. PODRAZA, ESQ. BY: WILLIAM H. TRASK, ESQ.</p> <p>15 BY: JOEL L. FRANK, ESQ. One South Broad Street 16 Suite 1500 Philadelphia, PA 19107</p> <p>17 215-609-3170 jpodraza@lambmcerlane.com</p> <p>18 Representing the Defendant, Local 98</p> <p>19</p> <p>20</p> <p>21 ALSO PRESENT: Ryan Morton Videographer</p> <p>22</p> <p>23 John Dougherty John O'Neill, Esq.</p> <p>24 ---</p>	<p style="text-align: right;">Page 147</p> <p>1 DEPOSITION SUPPORT INDEX</p> <p>2</p> <p>3 DIRECTION TO WITNESS NOT TO ANSWER</p> <p>4 Page Line</p> <p>5 168 2</p> <p>6 231 3</p> <p>7</p> <p>8 REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>9 Page Line Description</p> <p>10 175 20 Phone Log of FBI Call to</p> <p>11 Battle</p> <p>12</p> <p>13</p> <p>14 STIPULATIONS</p> <p>15 Page Line</p> <p>16 None</p> <p>17</p> <p>18 QUESTIONS MARKED</p> <p>19 Page Line</p> <p>20 None</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 146</p> <p>1 INDEX</p> <p>2 ---</p> <p>3 Testimony of: Charles Battle</p> <p>4 By Mr. Podraza 148, 298</p> <p>5 By Ms. DeBruicker 238</p> <p>6</p> <p>7</p> <p>8</p> <p>9 ---</p> <p>10 EXHIBITS</p> <p>11 ---</p> <p>12 EXHIBIT NUMBER DESCRIPTION PAGE MARKED</p> <p>13</p> <p>14</p> <p>15 Battle No. 11 Report of Interview 150</p> <p>16 Battle No. 12 Text Message 164</p> <p>17 Battle No. 14 E-Mails 179</p> <p>18 Battle No. 15 Photographs 257</p> <p>19 Battle No. 16 Nomination Slip 261</p> <p>20 Battle No. 17 Meme 281</p> <p>21</p> <p>22 ---</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 148</p> <p>1 THE VIDEOGRAPHER: Good</p> <p>2 afternoon. We're going on the record at</p> <p>3 3:45 p.m. on August 26th, 2021. This is</p> <p>4 Media Unit No. 1 of the continued</p> <p>5 video-recorded deposition of Charles</p> <p>6 Battle.</p> <p>7 Mr. Battle has already been</p> <p>8 sworn in.</p> <p>9 Counsel, you may proceed.</p> <p>10 MR. PODRAZA: Thank you.</p> <p>11 BY MR. PODRAZA:</p> <p>12 Q. Good afternoon, Mr. Battle.</p> <p>13 A. Hello.</p> <p>14 Q. I'd like to begin with what we</p> <p>15 have marked previously as Exhibit No. 10, that</p> <p>16 was a copy of the statement that you signed</p> <p>17 with the Department of Labor.</p> <p>18 And the very first page, sir, do</p> <p>19 you see that it's a cover page with the U. S.</p> <p>20 Department of Labor marking in the top</p> <p>21 left-hand corner?</p> <p>22 A. All right.</p> <p>23 Q. I just want to draw your</p> <p>24 attention to the language that says, "Prior to</p>

CHARLES BATTLE

<p style="text-align: right;">Page 149</p> <p>1 signing, OLMS discussed the purpose of the</p> <p>2 statement with Battle;" do you see what I just</p> <p>3 read?</p> <p>4 A. No.</p> <p>5 Q. It's the very last sentence just</p> <p>6 above all the blacked-out stuff?</p> <p>7 A. Okay.</p> <p>8 Q. Okay. It says, as I said,</p> <p>9 "Prior to signing OLMS discuss the purpose of</p> <p>10 the statement with Battle." What do you recall</p> <p>11 the discussion was that you had with the</p> <p>12 representative from the Department of Labor?</p> <p>13 A. What happened on the nomination</p> <p>14 night.</p> <p>15 Q. I'm sorry?</p> <p>16 A. What happened on the night of</p> <p>17 the nomination.</p> <p>18 Q. And what did they say the</p> <p>19 purpose of the statement from you was going to</p> <p>20 be?</p> <p>21 A. I don't remember.</p> <p>22 Q. Do you remember whether there</p> <p>23 was any reference to any other governmental</p> <p>24 action being taken after you gave the</p>	<p style="text-align: right;">Page 151</p> <p>1 somebody have an extra pen?</p> <p>2 MR. TRASK: (Mr. Trask</p> <p>3 indicated.)</p> <p>4 MR. HAINES: Thank you. Remind</p> <p>5 me to give it back later.</p> <p>6 MR. PODRAZA: It's a keepsake.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. All right. While you're</p> <p>9 reviewing what's been marked here as Exhibit</p> <p>10 No. 11 for your deposition, I'm just going to</p> <p>11 represent for the record, it is a Report of</p> <p>12 Interview involving Robert Bark, B-a-r-k,</p> <p>13 completed on September 4, 2020. And review the</p> <p>14 document, and when you're comfortable, I have</p> <p>15 just some questions to ask regarding it. Okay?</p> <p>16 A. Yeah.</p> <p>17 Q. All right. Let's go over the</p> <p>18 first page. Third full paragraph. As of 2020,</p> <p>19 did you know Mr. Bark for about 25 years?</p> <p>20 A. As of 2020?</p> <p>21 Q. Yes.</p> <p>22 A. It was, I would have known him</p> <p>23 22 years.</p> <p>24 Q. Okay. And did you grow up with</p>
<p style="text-align: right;">Page 150</p> <p>1 statement?</p> <p>2 A. No.</p> <p>3 Q. Do you recall though that a</p> <p>4 search warrant was issued on the headquarters</p> <p>5 of Local 98, days after you gave your statement</p> <p>6 to the Department of Labor?</p> <p>7 A. No.</p> <p>8 Q. Did you know at the time you</p> <p>9 were giving the statement, that your statement</p> <p>10 would help contribute to the search warrant</p> <p>11 being issued from that search?</p> <p>12 A. No.</p> <p>13 MS. DeBRUICKER: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. PODRAZA:</p> <p>17 Q. I'd then like to move on to what</p> <p>18 we're going to mark today as Exhibit No. 11.</p> <p>19 - - -</p> <p>20 (Whereupon the document was</p> <p>21 marked, for identification purposes, as</p> <p>22 Battle's Exhibit No. 11.)</p> <p>23 - - -</p> <p>24 MR. HAINES: I'm sorry. Does</p>	<p style="text-align: right;">Page 152</p> <p>1 Mr. Bark's cousin?</p> <p>2 A. No, I didn't grow up with him.</p> <p>3 I know him from the neighborhood. I didn't</p> <p>4 grow up with him.</p> <p>5 Q. And did you, Mr. Richie Kee, and</p> <p>6 Mr. Bark go to concerts?</p> <p>7 A. No.</p> <p>8 Q. Did the three of you hang out</p> <p>9 and drink?</p> <p>10 A. Yes.</p> <p>11 Q. Did the three of you take the</p> <p>12 children fishing together?</p> <p>13 A. No. I don't -- my kids, no.</p> <p>14 Q. And did the three of you attend</p> <p>15 weddings of mutual friends and members?</p> <p>16 A. No.</p> <p>17 Q. If you go to the next paragraph,</p> <p>18 there is reference to a garage being built.</p> <p>19 Did Mr. Bark help you get a zoning lawyer for</p> <p>20 the garage?</p> <p>21 A. Yes.</p> <p>22 Q. And if you continue down to the</p> <p>23 next paragraph there is reference to a meeting,</p> <p>24 a members' meeting of the union in November</p>

CHARLES BATTLE

<p style="text-align: right;">Page 153</p> <p>1 2014; do you see that there?</p> <p>2 A. Yes.</p> <p>3 Q. And it continues saying that you</p> <p>4 spoke with Mr. Bark and invited him if he had</p> <p>5 nowhere else to go for Thanksgiving; is that</p> <p>6 true?</p> <p>7 A. No, I asked him what he was</p> <p>8 doing for Thanksgiving.</p> <p>9 Q. And were you intending to invite</p> <p>10 him if he didn't have plans?</p> <p>11 A. No, I can't say. Maybe, maybe</p> <p>12 not. I don't know.</p> <p>13 Q. And if you continue to the next</p> <p>14 paragraph, there is further reference to the</p> <p>15 membership meeting in 2019; do you see that?</p> <p>16 A. I'm sorry. The next paragraph?</p> <p>17 Q. Yes. The one that starts,</p> <p>18 "During the aforementioned membership meeting."</p> <p>19 A. Uh-huh.</p> <p>20 Q. All right. There is reference</p> <p>21 there that you got up and asked the question,</p> <p>22 and that Bark was sitting maybe two chairs away</p> <p>23 from you; is that correct, or not correct?</p> <p>24 A. It could be possible. I don't</p>	<p style="text-align: right;">Page 155</p> <p>1 A. He wanted to know what my</p> <p>2 problem was.</p> <p>3 Q. All right. And did Mr. Bark</p> <p>4 make a reference to use the Frank McGhee</p> <p>5 method, "ask respectfully, get a respectful</p> <p>6 answer?"</p> <p>7 A. I don't know. Maybe.</p> <p>8 Q. And what was your response to</p> <p>9 Mr. Bark when he asked you what your problem</p> <p>10 was?</p> <p>11 A. All I do was ask the question in</p> <p>12 a union meeting, so I wanted to know what the</p> <p>13 problem is.</p> <p>14 Q. Was Mr. Bark indicating to you</p> <p>15 that he thought you were disrespectful to union</p> <p>16 leadership at that meeting?</p> <p>17 A. I heard this many a times,</p> <p>18 something about my tone.</p> <p>19 Q. And was it the tone that Mr.</p> <p>20 Bark was speaking with you about in that call?</p> <p>21 A. You would have to ask him. I</p> <p>22 don't know.</p> <p>23 Q. Well, from your vantage point,</p> <p>24 did you get the impression that Mr. Bark was</p>
<p style="text-align: right;">Page 154</p> <p>1 know.</p> <p>2 Q. Okay. And according to Mr.</p> <p>3 Bark's perspective, that he thought that you</p> <p>4 were being disrespectful to the union</p> <p>5 leadership?</p> <p>6 A. Yeah, I don't know why at that</p> <p>7 point, why they would get that. I mean, I</p> <p>8 remember that meeting. I think that one was</p> <p>9 the bylaw changes. They went over a lot of</p> <p>10 changes in a short amount of time, and we were</p> <p>11 having to vote on it right there.</p> <p>12 Q. And in the next paragraph, still</p> <p>13 making reference to that meeting in November of</p> <p>14 2019, Mr. Bark says after that meeting he spoke</p> <p>15 with you, and you know, words to the effect,</p> <p>16 what's up, what's the problem; do you recall</p> <p>17 that?</p> <p>18 MS. DeBRUICKER: Objection to</p> <p>19 form.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. You can answer.</p> <p>22 A. I received a phone call.</p> <p>23 Q. And what was said in that phone</p> <p>24 call?</p>	<p style="text-align: right;">Page 156</p> <p>1 talking to you about the tone that you used at</p> <p>2 the membership meeting --</p> <p>3 A. No. I did really didn't</p> <p>4 understand why he was calling.</p> <p>5 Q. Okay. I have to finish my</p> <p>6 question.</p> <p>7 A. I'm sorry.</p> <p>8 Q. We could have review the --</p> <p>9 A. I'm sorry.</p> <p>10 Q. -- so my question is, was it</p> <p>11 your impression that Mr. Bark was taking issue</p> <p>12 with the tone that you used at that November</p> <p>13 2019 meeting when he was speaking with you?</p> <p>14 A. I can't really say 'cause I</p> <p>15 didn't think I had a tone at that meaning.</p> <p>16 Q. Then if you go to the next page,</p> <p>17 Page No. 2 of the report of interview, the</p> <p>18 second full paragraph, there is reference to,</p> <p>19 there was a time where you asked Mr. Bark to</p> <p>20 leave your home; is that accurate?</p> <p>21 A. Which time are we speaking of</p> <p>22 here?</p> <p>23 Q. I'm going to ask you that. Did</p> <p>24 you at some time ask, tell Mr. Bark or ask him</p>

CHARLES BATTLE

<p style="text-align: right;">Page 157</p> <p>1 to leave your home?</p> <p>2 A. The second time he showed at my</p> <p>3 house, yes.</p> <p>4 Q. All right. And it says, it was</p> <p>5 the second time Mr. Bark went there. And is it</p> <p>6 true that Mr. Bark was with Mr. Kee?</p> <p>7 A. Yes.</p> <p>8 MS. DeBRUICKER: Objection to</p> <p>9 form.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. And then if you go to the fourth</p> <p>12 paragraph on Page No. 2, at least from the</p> <p>13 vantage point of Mr. Bark, he indicates that</p> <p>14 when he went to the door, that you were excited</p> <p>15 and angry. Were you excited and angry when Mr.</p> <p>16 Bark appeared at your door that second time?</p> <p>17 A. Yes.</p> <p>18 Q. And then Mr. Bark says you</p> <p>19 extended your hand for a handshake to Mr. Kee,</p> <p>20 but not to Mr. Bark; is that true?</p> <p>21 A. No.</p> <p>22 Q. What's wrong with that</p> <p>23 statement?</p> <p>24 A. I came out of my house and asked</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. And the next paragraph</p> <p>2 indicates, at least Mr. Bark estimated that he</p> <p>3 and Mr. Kee were at your house for say</p> <p>4 two-and-a-half to three minutes; is that about</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Now, on Page No. 3 of the Report</p> <p>8 of Interview, do you see that Mr. Bark makes</p> <p>9 reference to quote, issue, end quote, and he</p> <p>10 identifies the issue involved your stepson?</p> <p>11 A. Yes, I see that.</p> <p>12 Q. And it's really your son-in-law;</p> <p>13 is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. And by the way, going back, why</p> <p>16 were you angry and excited when Mr. Bark</p> <p>17 appeared at your door?</p> <p>18 A. The second time?</p> <p>19 Q. The second time.</p> <p>20 A. Okay. So, the first time I</p> <p>21 wasn't happy 'cause you know, you're bringing,</p> <p>22 you're bringing business stuff to my house, my</p> <p>23 personal residence. My wife is already scared</p> <p>24 to death of this man, so she doesn't want</p>
<p style="text-align: right;">Page 158</p> <p>1 him what he was doing at my house.</p> <p>2 Q. And did Mr. Bark say to you,</p> <p>3 words to the effect that he made a mistake</p> <p>4 coming to your house, that he was sorry, and</p> <p>5 thought you were friends?</p> <p>6 MS. DeBRUICKER: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: I wouldn't put it</p> <p>9 in those exact words, but maybe something</p> <p>10 to that effect.</p> <p>11 BY MR. PODRAZA:</p> <p>12 Q. And your wife was there; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And if I'm not mistaken, in your</p> <p>16 protest letter of June 16, you indicate that</p> <p>17 Mr. Bark appearing at the house, quote, he put</p> <p>18 the fear of God into my wife and family, end</p> <p>19 quote; is that correct?</p> <p>20 MS. DeBRUICKER: Objection.</p> <p>21 THE WITNESS: My family's still</p> <p>22 scared when someone knocks on my door, so</p> <p>23 I'm going to say, yeah.</p> <p>24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 160</p> <p>1 anything to do with this. He showed up at the</p> <p>2 job, talked to me again, after text message,</p> <p>3 after text message, after text message, I told</p> <p>4 him, "Don't come to my house."</p> <p>5 Q. Okay.</p> <p>6 A. "Don't bring this nonsense to my</p> <p>7 front door." And he did it again on a Sunday</p> <p>8 night, two nights before nomination.</p> <p>9 Q. Now, the second time that we're</p> <p>10 talking about, is that a Sunday, June 7th,</p> <p>11 2020?</p> <p>12 A. It was a Sunday night. I'm not</p> <p>13 even sure of the date.</p> <p>14 Q. All right. Well, if I told you</p> <p>15 the nomination proceeding was June 9th, a</p> <p>16 Tuesday; June 8th would have been the Monday;</p> <p>17 June 7th would be the Sunday; does that help?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So, we're talking now</p> <p>20 about June 7th, 2020, the second visit of Mr.</p> <p>21 Bark?</p> <p>22 MS. DeBRUICKER: Objection.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. PODRAZA:</p>

CHARLES BATTLE

<p style="text-align: right;">Page 161</p> <p>1 Q. Now, Mr. Bark indicates that</p> <p>2 your son-in-law was passed over for an</p> <p>3 apprenticeship; is that correct?</p> <p>4 A. Passed over?</p> <p>5 Q. He uses those words. Did your</p> <p>6 son-in-law apply for an apprenticeship?</p> <p>7 A. He did.</p> <p>8 Q. And did he get it?</p> <p>9 A. Well, which year are we speaking</p> <p>10 of here?</p> <p>11 Q. Well, walk me through the</p> <p>12 chronology of your son-in-law's involvement in</p> <p>13 the union?</p> <p>14 A. I don't remember the years. It</p> <p>15 might have been three or four times. He tried</p> <p>16 the first year, but Local lost his paperwork,</p> <p>17 didn't know who he was, disappeared off the</p> <p>18 planet.</p> <p>19 Second, third year, he didn't</p> <p>20 get in. I think it might have been the fourth</p> <p>21 year, he did, and I think the next year after</p> <p>22 that he didn't.</p> <p>23 Q. Well, if he got in, why did he</p> <p>24 have to apply subsequently?</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. And there is reference then on</p> <p>2 the third paragraph of Page No. 3 to you being</p> <p>3 upset about paying union dues while you were</p> <p>4 working in Poland.</p> <p>5 A. Correct.</p> <p>6 Q. Is that accurate?</p> <p>7 A. Yes.</p> <p>8 Q. How long were you in Poland?</p> <p>9 A. For a year.</p> <p>10 Q. And during that year period, did</p> <p>11 Mr. Bark or Mr. Kee have any interaction with</p> <p>12 your wife?</p> <p>13 A. You would have to ask her.</p> <p>14 Q. Your wife knew, though, Mr. Kee</p> <p>15 correct, prior to the June 7th, 2020, visit?</p> <p>16 A. They have met, so --</p> <p>17 Q. And your wife was familiar with</p> <p>18 Mr. Bark prior to June 7th, 2020, correct?</p> <p>19 A. Yes.</p> <p>20 Q. In fact, they interacted on</p> <p>21 numerous occasions prior to June 7th, 2020 --</p> <p>22 A. No, no.</p> <p>23 Q. -- haven't they? And then on</p> <p>24 the last page it, Page No. 4, Mr. Bark says,</p>
<p style="text-align: right;">Page 162</p> <p>1 A. Because he failed a drug test.</p> <p>2 Q. Oh, he failed a drug test?</p> <p>3 A. Yes.</p> <p>4 Q. And then subsequently, he</p> <p>5 applied again to try to get into the</p> <p>6 apprenticeship program?</p> <p>7 A. Yes.</p> <p>8 Q. And can we agree that the</p> <p>9 apprentice program is, it's a program where</p> <p>10 those who are selected are paid to learn the</p> <p>11 trade or craft while they are learning and</p> <p>12 studying?</p> <p>13 A. Yes.</p> <p>14 Q. And it's a stepping stone into</p> <p>15 becoming a very competent electrical worker,</p> <p>16 correct?</p> <p>17 MS. DeBRUICKER: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: For most people,</p> <p>20 yes.</p> <p>21 BY MR. PODRAZA:</p> <p>22 Q. And you yourself went through</p> <p>23 that program, correct?</p> <p>24 A. I did.</p>	<p style="text-align: right;">Page 164</p> <p>1 "On one occasion he teased you by nickname, by</p> <p>2 saying you earned the nickname, quote, Bitter</p> <p>3 Battle, end quote;" do you see that there?</p> <p>4 A. I see it.</p> <p>5 Q. Did he in fact share that with</p> <p>6 you?</p> <p>7 A. No, not to my recollection.</p> <p>8 Q. All right. And he then says,</p> <p>9 your response was quote, don't worry, Bob,</p> <p>10 you're not the problem, end quote; does that</p> <p>11 help refresh your recollection?</p> <p>12 A. No.</p> <p>13 Q. Now, I'd like to show you what</p> <p>14 we're going to mark as Exhibit No. 12.</p> <p>15 - - -</p> <p>16 (Whereupon the document was</p> <p>17 marked, for identification purposes, as</p> <p>18 Battle's Exhibit No. 12.)</p> <p>19 - - -</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. And you'll see that the second</p> <p>22 page is a duplication of the first page, and</p> <p>23 then there is a little, like the last paragraph</p> <p>24 at the bottom.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 165</p> <p>1 A. Okay.</p> <p>2 Q. Do you recall receiving this</p> <p>3 text from Mr. Bark?</p> <p>4 A. I do.</p> <p>5 Q. And why don't we review that a</p> <p>6 little bit. It starts out with, first you</p> <p>7 received it on June 8th, 2020; is that correct?</p> <p>8 A. It would have been, I think it</p> <p>9 was the same night when he showed up at my</p> <p>10 house, so whatever the date was.</p> <p>11 Q. Okay. That would be June 7th,</p> <p>12 but I can represent to you is a Sunday, and</p> <p>13 June 8th would be a Monday.</p> <p>14 A. Okay. Well, date's right there.</p> <p>15 I thought it was the same night, but okay.</p> <p>16 Q. Okay. Do you have any reason to</p> <p>17 disagree that the text was received by you on</p> <p>18 June 8th, 2020, around 9:00 p.m. at night?</p> <p>19 A. No. It's what it says.</p> <p>20 Q. And it says, "hey, Charlie," and</p> <p>21 that's you, correct?</p> <p>22 A. Yes.</p> <p>23 Q. "That did not go the way I was</p> <p>24 hoping. I knew you would be a little mad about</p>	<p style="text-align: right;">Page 167</p> <p>1 influence of either alcohol, or narcotics, or</p> <p>2 any medications at any of these meetings?</p> <p>3 MS. DeBRUICKER: Objection.</p> <p>4 MR. HAINES: I'm going to</p> <p>5 interpose an objection as well. Any of</p> <p>6 these meetings?</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Have you ever been under the</p> <p>9 influence of either alcohol or any other</p> <p>10 controlled substance at any of the membership</p> <p>11 meetings?</p> <p>12 MR. HAINES: Objection.</p> <p>13 MS. DeBRUICKER: Objection.</p> <p>14 MR. HAINES: Where are we going</p> <p>15 with this? Are we going back 20 years?</p> <p>16 Is that what you're asking him? Has he</p> <p>17 ever showed up --</p> <p>18 MR. PODRAZA: Sure.</p> <p>19 MR. HAINES: And the relevance</p> <p>20 of that is?</p> <p>21 MR. PODRAZA: Well, the</p> <p>22 statement, I don't have to explain myself</p> <p>23 to your, Mr. Haines.</p> <p>24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 166</p> <p>1 me coming to your house from the conversation</p> <p>2 we had on job that time. You told me you were</p> <p>3 a little taken aback, that is why I brought</p> <p>4 Richie" -- Richie is Mr. Kee; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. All right. "Let me clear the</p> <p>7 air, I did not say you were on drugs because I</p> <p>8 was not at the meeting." What did you</p> <p>9 understand Mr. Bark was meaning by saying, "I</p> <p>10 did not say you were on drugs because I was not</p> <p>11 at the meeting?"</p> <p>12 A. So I had a few people telling</p> <p>13 me, he is asking other members or actually</p> <p>14 telling other members that I'm on drugs.</p> <p>15 Q. "He" being Mr. Bark?</p> <p>16 A. Yes.</p> <p>17 Q. All right. Without getting too</p> <p>18 personal, were you on drugs at any of the</p> <p>19 meetings or any activities that were union</p> <p>20 related?</p> <p>21 A. Absolutely not.</p> <p>22 MS. DeBRUICKER: Objection.</p> <p>23 BY MR. PODRAZA:</p> <p>24 Q. Have you ever been under the</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Please answer the question.</p> <p>2 MR. HAINES: Well, you do not</p> <p>3 have to answer the question if he doesn't</p> <p>4 want to explain --</p> <p>5 MR. PODRAZA: All right. For</p> <p>6 each of the instructions by counsel,</p> <p>7 would you please mark them separately so</p> <p>8 with have a separate section for them in</p> <p>9 the transcript?</p> <p>10 MR. HAINES: That's an improper</p> <p>11 question --</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. And it continues, "somebody said</p> <p>14 you were very animated at the meeting, and that</p> <p>15 you were on drugs." What did you understand</p> <p>16 Mr. Bark was conveying to you with that</p> <p>17 statement?</p> <p>18 A. I guess somebody was telling him</p> <p>19 I was on drugs. You would have to ask him. I</p> <p>20 don't know.</p> <p>21 Q. From your vantage point, have</p> <p>22 you ever had behavior at a union meeting, or</p> <p>23 membership meeting that would indicate to</p> <p>24 somebody or have somebody consider it to be</p>

CHARLES BATTLE

<p style="text-align: right;">Page 169</p> <p>1 that you were under the influence --</p> <p>2 MS. DeBRUICKER: Objection.</p> <p>3 MR. HAINES: Objection.</p> <p>4 BY MR. PODRAZA:</p> <p>5 Q. -- either alcohol or controlled</p> <p>6 substance?</p> <p>7 MS. DeBRUICKER: Objection.</p> <p>8 THE WITNESS: Am I answering</p> <p>9 that?</p> <p>10 MR. HAINES: Yes, you can</p> <p>11 answer.</p> <p>12 THE WITNESS: You would have to</p> <p>13 ask, how could I answer that? I wouldn't</p> <p>14 even know how to answer that.</p> <p>15 BY MR. PODRAZA:</p> <p>16 Q. Well, the question was --</p> <p>17 A. I heard the question. I just</p> <p>18 don't understand how I would -- you would have</p> <p>19 to ask everybody else. How could I answer</p> <p>20 that?</p> <p>21 Q. And then the text continues,</p> <p>22 "the most I may have said was, quote, maybe,</p> <p>23 could have been, who knows? I did call people</p> <p>24 today because that is what I was told. I came</p>	<p style="text-align: right;">Page 171</p> <p>1 text, did you share it with your wife to calm</p> <p>2 her down?</p> <p>3 MS. DeBRUICKER: Objection to</p> <p>4 form.</p> <p>5 THE WITNESS: I don't remember.</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. Did you share it with the FBI?</p> <p>8 A. At some point, yeah.</p> <p>9 Q. When?</p> <p>10 A. I don't remember.</p> <p>11 Q. What year?</p> <p>12 A. What year? That was the</p> <p>13 question, what year?</p> <p>14 Q. Yes.</p> <p>15 A. 2020.</p> <p>16 Q. When did you speak with the FBI</p> <p>17 in 2020?</p> <p>18 A. They called me. I don't even</p> <p>19 remember when.</p> <p>20 Q. Was it when you were --</p> <p>21 A. Hold on. It was after a</p> <p>22 meeting, I got a call from them after one of</p> <p>23 the meetings.</p> <p>24 Q. Was this a meeting before or</p>
<p style="text-align: right;">Page 170</p> <p>1 here again to talk to you as a friend. I truly</p> <p>2 mean that, and it is obvious that you have</p> <p>3 something that is bothering you. I'm sorry you</p> <p>4 feel that way, and I will respect you and your</p> <p>5 privacy in the future. I honestly thought we</p> <p>6 were better friends than that."</p> <p>7 Do you recall reading those</p> <p>8 statements on June 8th, 2020?</p> <p>9 A. I recall reading them. I</p> <p>10 couldn't tell you what date it was, but sure.</p> <p>11 Q. All right. And then it ends,</p> <p>12 "We had some good times together, and some</p> <p>13 great memories." Would you agree with that</p> <p>14 statement by Mr. Bark?</p> <p>15 A. Yeah.</p> <p>16 Q. "I do not know how things got</p> <p>17 here, and I was hoping to talk to you several</p> <p>18 times, but you have your mind made up that for</p> <p>19 some reason I am your enemy. I am not. All I</p> <p>20 can say is, sorry." And then it ends with,</p> <p>21 capital T, capital T, capital Y, capital L; do</p> <p>22 you know what that stands for?</p> <p>23 A. Talk to you later.</p> <p>24 Q. Now, when you received this</p>	<p style="text-align: right;">Page 172</p> <p>1 after the June 9, 2020 nomination proceeding?</p> <p>2 A. Before.</p> <p>3 Q. Was the meeting sometime between</p> <p>4 when the indictment was filed against certain</p> <p>5 members of the leadership of the union in</p> <p>6 January of 2020, to June 9th, 2020, the</p> <p>7 nomination proceeding; is that when the call</p> <p>8 occurred?</p> <p>9 MS. DeBRUICKER: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I don't remember.</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. Was it in the wintertime, or was</p> <p>14 it in the early spring that you received the</p> <p>15 call from the FBI?</p> <p>16 MS. DeBRUICKER: Objection to</p> <p>17 form.</p> <p>18 MR. HAINES: Objection, you can</p> <p>19 answer.</p> <p>20 THE WITNESS: I just don't</p> <p>21 remember.</p> <p>22 BY MR. PODRAZA:</p> <p>23 Q. Do you recall who the agent was?</p> <p>24 A. No. I don't remember his name.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 173</p> <p>1 Q. What was said? What did you 2 say, and what did they say? 3 A. I was told that they understood 4 I was standing up at a meeting, at meetings, or 5 a meeting, and you know, just asking questions, 6 and I said, well, I asked them what they 7 wanted, and I didn't get an answer, and I said, 8 if you're looking for anything on John, I said, 9 "I don't know what John does on a daily basis. 10 I just want to know where the Local's money is 11 being spent, where it is being spent, and why 12 it is being spent. That's all I want to know." 13 Q. Was there anything else in the 14 conversation with the FBI? 15 A. Not that I recall. 16 Q. Was there any follow-up with the 17 FBI, either by them or by you? 18 A. After I felt frightened, yeah. 19 Q. When was the next contact with 20 the FBI? 21 A. I couldn't tell you. 22 Q. Well, it was after June 9, 2020; 23 is that correct? That's the nomination 24 proceeding day?</p>	<p style="text-align: right;">Page 175</p> <p>1 recall. 2 Q. Was the FBI looking for 3 information in order to assist them in 4 establishing probable cause for the issuance of 5 the search warrant in October 2020? 6 MS. DeBRUICKER: Objection to 7 form. 8 BY MR. PODRAZA: 9 Q. Is that what they told you? 10 A. I don't recall. I don't recall 11 what it was. 12 Q. Do you have any records or any 13 -- strike that. 14 Did the FBI contacted you on 15 your cell phone? 16 A. Yes, yes. 17 Q. Does your cell phone records 18 indicate incoming calls? 19 A. I would say, yeah. 20 Q. And may I make a request if you 21 could take a look at your cell phone records to 22 see if you could, you know, when the FBI 23 contacted you, that will establish the date and 24 time for us, which would be very helpful?</p>
<p style="text-align: right;">Page 174</p> <p>1 A. I just don't remember. 2 Q. Was it before or after the IBP 3 denied your protest? 4 A. Don't remember. 5 Q. Was it before or after you had 6 contact with the Department of Labor on August 7 18, 2020? 8 A. Don't remember. 9 Q. Was it before or after you gave 10 the statement to the Department of Labor? 11 A. Don't remember. 12 Q. Was it at the time that the -- 13 strike that. 14 Was it around the time when the 15 FBI executed the search warrant on the 16 headquarters of the union in October of 2020? 17 A. I just don't remember. 18 Q. It wasn't in 2021; is that 19 correct? 20 A. No, was not. 21 Q. What was the purpose of the 22 second contact by the FBI? What was said, and 23 what did you say? 24 A. I don't remember. I don't</p>	<p style="text-align: right;">Page 176</p> <p>1 THE WITNESS: You're good with 2 that? 3 MR. HAINES: He made the 4 request, so whether we do it or not 5 remains to be seen. 6 THE WITNESS: Yeah, sure. 7 BY MR. PODRAZA: 8 Q. Okay. You don't have to do it 9 right at this moment, we could maybe do a break 10 or something, you can take a look at your phone 11 and help us establish that date. 12 Did you supply any 13 representative from the Department of Labor 14 with any text that we just reviewed by Mr. 15 Bark? 16 A. I don't recall. I don't think 17 so. 18 Q. I don't recall in your statement 19 to the Department of Labor that you made any 20 reference to the text that we marked here as 21 Exhibit No. 12; is that correct? 22 MS. DeBRUICKER: Objection. 23 You're asking what you recall? 24 BY MR. PODRAZA:</p>

CHARLES BATTLE

<p style="text-align: right;">Page 177</p> <p>1 Q. Well, I don't recall him making 2 reference to it; is that correct, or did you 3 make reference to it? 4 A. I don't recall. 5 Q. All right. Why don't you take a 6 look at your statement? It's going to 7 be Exhibit -- 8 MR. HAINES: Since it's a 9 document, doesn't it speak for itself and 10 either answers the question or it 11 doesn't? Why are we being -- 12 MR. PODRAZA: If -- we'll follow 13 up. 14 BY MR. PODRAZA: 15 Q. Take a look at Exhibit No. 10. 16 MR. HAINES: I'm an old man. I 17 do have an early bedtime. 18 MR. PODRAZA: Counsel, I think 19 it may have actually been in front of you 20 'cause we started out with Exhibit No. 21 10. 22 MR. HAINES: Oh, there it is. 23 Okay. 24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. So, the answer to my question 2 would be, yes, you haven't lost any employment 3 -- 4 A. That's the answer to the 5 question or the statement just made, I haven't 6 lost any employment because I'm a damn good 7 electrician. 8 Q. And I'd like to review with you 9 what we're going to mark as, well, first, let 10 me, yeah, we're going to mark as Exhibit No. 11 14 -- 12 MS. DeBRUICKER: Counsel, are we 13 at 13? 14 MR. PODRAZA: I'm going to 15 bypass that right now since these are 16 premarked, I'm going to stay with the 17 premarked right now, thank you. 18 - - - 19 (Whereupon the document was 20 marked, for identification purposes, as 21 Battle's Exhibit No. 14.) 22 - - - 23 MR. HAINES: This is 14? 24 MR. PODRAZA: This is 14.</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. Take your time and let me know 2 if there is any reference in there by you, 3 regarding the text that's been marked here as 4 Exhibit No. 12. 5 MS. DeBRUICKER: Objection. 6 THE WITNESS: Is it in here? 7 I'm not going to read it. 8 MR. PODRAZA: I don't believe it 9 is, that's why I'm asking you. 10 THE WITNESS: If it's not in 11 here, then it's not in here. 12 BY MR. PODRAZA: 13 Q. Okay. Am I correct that since 14 June 9, 2020, you have not lost any employment? 15 A. You're correct. 16 Q. And you haven't lost any 17 employment, despite any exchanges you may have 18 had with Mr. Dougherty at any union membership 19 meeting at any time, correct? 20 MS. DeBRUICKER: Objection. 21 THE WITNESS: I haven't lost any 22 employment because I'm a damn good 23 electrician. 24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 180</p> <p>1 THE WITNESS: Okay. 2 BY MR. PODRAZA: 3 Q. Okay? 4 A. Yeah. 5 Q. For the record, Exhibit No. 14 6 is a collection of e-mails to Mr. Dougherty by 7 you or vice versa; is that correct? 8 A. Yes. 9 Q. All right. And they begin in 10 October of 2016; is that correct? 11 A. Yep, that's the date on it, yep. 12 Q. And am I also correct that these 13 e-mails relate to your son-in-law and desiring 14 to get him into the apprentice program? 15 A. Yes. 16 Q. And the effort to do so goes 17 from October of 2016 through 2017, through 18 2019, ending in November of 2019; do you see 19 that? 20 A. I do. 21 Q. All right. And at that point in 22 November of 2019, your son-in-law was not 23 accepted into the apprentice program, correct? 24 A. I believe that the time is</p>

CHARLES BATTLE

<p style="text-align: right;">Page 181</p> <p>1 accurate?</p> <p>2 Q. Meaning, that he wasn't accepted</p> <p>3 at that time, in November of 2019?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And you're aware</p> <p>6 that, I had misspoken earlier, the federal</p> <p>7 indictment of certain members of leadership in</p> <p>8 the union occurred in January of 2019; I'll</p> <p>9 represent that to you.</p> <p>10 A. Okay.</p> <p>11 Q. And while that indictment was</p> <p>12 pending, there is at least one e-mail of</p> <p>13 September 24, 2019; do you see that there, sir?</p> <p>14 A. September --</p> <p>15 Q. 24, 2019?</p> <p>16 MS. DeBRUICKER: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: September 24, do I</p> <p>19 see September 24? Yes.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. Right. And it's written by you;</p> <p>22 is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. All right. So, whenever there</p>	<p style="text-align: right;">Page 183</p> <p>1 well with you?"</p> <p>2 A. Yeah, I'm pretty sure that was</p> <p>3 me.</p> <p>4 Q. It appears that you were really</p> <p>5 desirous for your son-in-law to be become or be</p> <p>6 included in the apprentice program, that you</p> <p>7 were very committed to that; is that correct?</p> <p>8 MS. DeBRUICKER: Objection.</p> <p>9 THE WITNESS: Like what any</p> <p>10 other family member would do for their</p> <p>11 family, so yes.</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. Why did you want to see that</p> <p>14 your son-in-law accepted into the apprentice</p> <p>15 program?</p> <p>16 A. 98 gave me a great life, and I</p> <p>17 wanted my daughter to have a good life, simple</p> <p>18 as that.</p> <p>19 Q. Was it important to you for your</p> <p>20 son-in-law to be accepted into the apprentice</p> <p>21 program?</p> <p>22 A. Was it important for me?</p> <p>23 Q. Yes.</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 182</p> <p>1 is an e-mail in this compilation that's sent</p> <p>2 from Jeanette Battle's e-mail address, it was</p> <p>3 authored by you; is that correct?</p> <p>4 MS. DeBRUICKER: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. In other words, your wife didn't</p> <p>9 create these e-mails and send it to Mr.</p> <p>10 Dougherty, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And, so, what you wrote</p> <p>13 in September of 2019, "Hello John, it's Charles</p> <p>14 Battle, I hope all is well with you and your</p> <p>15 family," correct?</p> <p>16 A. Yes.</p> <p>17 Q. And then, thereafter, four days</p> <p>18 later you say the same thing, correct? If you</p> <p>19 go to the next e-mail, September 28?</p> <p>20 A. Uh-huh.</p> <p>21 Q. And --</p> <p>22 A. Okay.</p> <p>23 Q. In November of 2019, on November</p> <p>24 15, is it you who wrote, "Hey John, hope all is</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. Did you feel disappointed when</p> <p>2 your son-in-law was not ultimately accepted</p> <p>3 into the program and allowed to graduate from</p> <p>4 it?</p> <p>5 MS. DeBRUICKER: Objection.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. No? Did your son-in-law feel</p> <p>9 disappointed that he was not allowed to be in</p> <p>10 the program and complete the program?</p> <p>11 MS. DeBRUICKER: Objection.</p> <p>12 THE WITNESS: You have to ask</p> <p>13 him.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Am I correct that failure of the</p> <p>16 drug test is, essentially, disqualifies someone</p> <p>17 from --</p> <p>18 A. Absolutely.</p> <p>19 Q. -- getting into the apprentice</p> <p>20 program?</p> <p>21 A. Absolutely.</p> <p>22 Q. So, after your son-in-law was</p> <p>23 dismissed from the program for having failed</p> <p>24 the drug test, you continued though to reach</p>

CHARLES BATTLE

<p style="text-align: right;">Page 185</p> <p>1 out to Mr. Dougherty to ask him to help you get 2 your son-in-law into the program, correct? 3 MR. HAINES: Objection. 4 THE WITNESS: So, I mean, I 5 tried to help him out. I mean, you see 6 the e-mails. 7 BY MR. PODRAZA: 8 Q. But my question to you is a 9 little more pointed. After your son was 10 dismissed from the apprentice program because 11 he failed the drug test, you nevertheless 12 continued sending e-mails over time to Mr. 13 Dougherty, requesting that your son-in-law be 14 put into the apprentice program, correct? 15 MR. HAINES: Objection. 16 MS. DeBRUICKER: Objection. 17 THE WITNESS: The following year 18 I did. 19 BY MR. PODRAZA: 20 Q. And would it be fair to say 21 you're asking a favor of Mr. Dougherty to 22 overlook the failure of the drug test by your 23 son-in-law to let him in? 24 MR. HAINES: Objection.</p>	<p style="text-align: right;">Page 187</p> <p>1 apprentice program because of his failing the 2 drug test? 3 MS. DeBRUICKER: Objection. 4 MR. HAINES: Objection, where is 5 that, is that in response to one of his 6 e-mails? 7 THE WITNESS: No. 8 MR. HAINES: Did you say that? 9 THE WITNESS: No. 10 BY MR. PODRAZA: 11 Q. Do you, I think we established 12 over the years that you consistently attended 13 union membership meetings; is that correct? 14 A. Over the years? 15 Q. Yes. 16 A. Consistently? 17 Q. Yeah. 18 A. No. 19 Q. All right. How about like the 20 last five years, prior to the coronavirus when 21 there were membership meetings, how would you 22 describe your regularity in attendance? 23 A. Two or three meetings a year, 24 maybe.</p>
<p style="text-align: right;">Page 186</p> <p>1 THE WITNESS: Absolutely not. 2 BY MR. PODRAZA: 3 Q. Are you aware that the failure 4 of that drug test disqualifies somebody from 5 being considered further for inclusion in the 6 apprentice program? 7 A. No. 8 Q. Is this the first you're hearing 9 of that? 10 A. I can tell you I know kids that 11 have failed the drug test and have been taken 12 in the next year, or however many years, I 13 don't know what it takes, whatever, I don't 14 know the whole process of anybody getting in, I 15 don't care, you know, my son-in-law is not in 16 this Local because my son-in-law is a dope. 17 That's the bottom line. I never blamed John, 18 never said it was his fault. My son-in-law is 19 not an apprentice in this program because my 20 son-in-law is an idiot. 21 Q. You never, you never took issue 22 with Mr. Dougherty saying that your son -- 23 son-in-law should, essentially, should not have 24 been excluded from consideration in the</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. And at those meetings, were 2 there other members? 3 A. Yes. 4 Q. And, generally, would it vary 5 from, from what to what, the number of 6 attendees? 7 A. I don't know. 8 Q. Well, let's just say this past 9 Tuesday, what, a hundred to 200 members in 10 attendance? 11 MS. DeBRUICKER: Objection. 12 THE WITNESS: Maybe. 13 BY MR. PODRAZA: 14 Q. And those meetings that you 15 attended, you would freely speak up before the 16 members with any issues that you felt 17 important, correct? 18 A. What meetings? What meetings 19 are we speaking of? 20 Q. We're talking about the number 21 of meetings? 22 A. The past five years? 23 Q. Yes. 24 MS. DeBRUICKER: Objection.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 189</p> <p>1 THE WITNESS: I just don't</p> <p>2 understand the question.</p> <p>3 BY MR. PODRAZA:</p> <p>4 Q. If you felt that there was an</p> <p>5 issue that was important to you, you would</p> <p>6 stand up and express it to leadership, correct?</p> <p>7 MR. HAINES: Objection.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. PODRAZA:</p> <p>10 Q. No? Why not?</p> <p>11 A. Same reason why no one speaks up</p> <p>12 at meetings, because if you speak up, you're on</p> <p>13 the outs.</p> <p>14 Q. Let's talk about this past</p> <p>15 membership meeting, this past Tuesday, is that</p> <p>16 fresh in your mind?</p> <p>17 A. Yeah.</p> <p>18 Q. And this past meeting was</p> <p>19 attended by approximately 100 to 150 members,</p> <p>20 correct?</p> <p>21 MS. DeBRUICKER: Objection.</p> <p>22 THE WITNESS: If you say so.</p> <p>23 BY MR. PODRAZA:</p> <p>24 Q. And towards the end of the</p>	<p style="text-align: right;">Page 191</p> <p>1 MR. HAINES: Objection.</p> <p>2 MS. DeBRUICKER: Objection.</p> <p>3 MR. HAINES: That's a speech,</p> <p>4 and argumentative, you can interpret any</p> <p>5 way you want, but you can't make him</p> <p>6 interpret --</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. And you also stand up, you</p> <p>9 pointed to Mr. O'Neill, words to the effect of,</p> <p>10 "does he have a ticket," correct?</p> <p>11 MS. DeBRUICKER: Objection.</p> <p>12 THE WITNESS: That's exactly</p> <p>13 what I said.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. And Mr. Dougherty responded,</p> <p>16 "yes," correct?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And you continued in front of</p> <p>19 full membership, "how does he have a ticket?"</p> <p>20 And "why doesn't he have to pay the normal</p> <p>21 union deductions and other members do?" Isn't</p> <p>22 that what you said?</p> <p>23 THE WITNESS: Can we have a</p> <p>24 minute?</p>
<p style="text-align: right;">Page 190</p> <p>1 meeting, there is a time when the members can</p> <p>2 pose questions to the union officers, correct?</p> <p>3 A. There are supposed to be, good</p> <p>4 at the union...</p> <p>5 Q. And did that occur at this past</p> <p>6 Tuesday, correct?</p> <p>7 A. No.</p> <p>8 Q. No? You didn't stand up and ask</p> <p>9 a question, be the first person to ask a</p> <p>10 question?</p> <p>11 A. No.</p> <p>12 MS. DeBRUICKER: Objection.</p> <p>13 BY MR. PODRAZA:</p> <p>14 Q. No? You didn't stand up and ask</p> <p>15 a question, pointing over to Mr. O'Neill, and</p> <p>16 say, "Isn't that Jack O'Neill?"</p> <p>17 A. I did that, yes.</p> <p>18 Q. And you did this in front of 100</p> <p>19 to 150 members, correct?</p> <p>20 A. Yeah, yes.</p> <p>21 Q. And this is after everyone in</p> <p>22 the union knows that you had given a statement</p> <p>23 to the Department of Labor, you had filed a</p> <p>24 protest, you had taken an appeal, correct?</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. HAINES: Bap, bap, bap, bap,</p> <p>2 bap, bap, bap. Answer his question.</p> <p>3 THE WITNESS: Ask it again, I'm</p> <p>4 sorry.</p> <p>5 MR. PODRAZA: Sure.</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. And you continued standing up</p> <p>8 before the membership saying words to that</p> <p>9 effect, "how does he," meaning Mr. O'Neill,</p> <p>10 "have a ticket? And, "why doesn't he have to</p> <p>11 pay the normal union deductions that other</p> <p>12 members do," correct?</p> <p>13 MS. DeBRUICKER: Objection.</p> <p>14 THE WITNESS: I don't remember</p> <p>15 that being phrased quite that way, but</p> <p>16 okay.</p> <p>17 BY MR. PODRAZA:</p> <p>18 Q. And Mr. Dougherty responded,</p> <p>19 "they do pay the normal deductions and it's</p> <p>20 normal for union staff to have to be given a</p> <p>21 ticket, and to be paid accordingly," correct?</p> <p>22 MS. DeBRUICKER: Objection.</p> <p>23 THE WITNESS: You would have to</p> <p>24 ask Mr. Dougherty that. I don't remember</p>

CHARLES BATTLE

<p style="text-align: right;">Page 193</p> <p>1 that.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. You were in attendance. He was</p> <p>4 responding to your question that you posed</p> <p>5 while you were at the membership meeting?</p> <p>6 A. You're asking me if that's what</p> <p>7 he said.</p> <p>8 Q. And you continued then to ask</p> <p>9 questions, standing in front of the membership</p> <p>10 about Bob Bolling, Tara chupka and Maria</p> <p>11 Crawford, and about tickets relating to them,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 MS. DeBRUICKER: Objection.</p> <p>15 BY MR. PODRAZA:</p> <p>16 Q. And, Mr. Dougherty responded the</p> <p>17 same way to the questions that you posed,</p> <p>18 correct?</p> <p>19 MS. DeBRUICKER: Objection.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. PODRAZA:</p> <p>22 Q. And you asked Mr. Foy -- who is</p> <p>23 on the executive board, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 195</p> <p>1 MR. HAINES: A, bap, bap, bap,</p> <p>2 bap, bap. Hold the phone. We're not</p> <p>3 doing that. We're not having an argument</p> <p>4 between the two of you.</p> <p>5 BY MR. PODRAZA:</p> <p>6 Q. And you said words to the effect</p> <p>7 that it's unfair that the union was paying for</p> <p>8 you to be deposed in the defamation case</p> <p>9 regarding a web site, right?</p> <p>10 A. I did not say it was unfair.</p> <p>11 Q. But you raised the issue of the</p> <p>12 union paying to sue you in the defamation case,</p> <p>13 right?</p> <p>14 MS. DeBRUICKER: Objection.</p> <p>15 THE WITNESS: Possibly.</p> <p>16 BY MR. PODRAZA:</p> <p>17 Q. And Mr. Dougherty stated that</p> <p>18 it's the web site that has a statement on</p> <p>19 there, such as", John's wife should die because</p> <p>20 she cost the Health and Welfare Fund too much</p> <p>21 money;" do you remember him saying that to you?</p> <p>22 MS. DeBRUICKER: Objection.</p> <p>23 THE WITNESS: I do remember him</p> <p>24 saying that.</p>
<p style="text-align: right;">Page 194</p> <p>1 Q. -- how legal expenses get</p> <p>2 approved, correct?</p> <p>3 A. Uh-huh.</p> <p>4 Q. And Mr. Foy explained to you</p> <p>5 that they are reviewed by attorneys and --</p> <p>6 A. That's not the question I asked.</p> <p>7 Q. No? What was the question you</p> <p>8 asked?</p> <p>9 A. It's in the records, isn't it?</p> <p>10 Q. No, I'm asking you. What</p> <p>11 question did you ask?</p> <p>12 A. I asked him, why I was getting</p> <p>13 deposed by John and four lawyers, how that</p> <p>14 money gets approved.</p> <p>15 Q. And you made that question in</p> <p>16 front of the full membership, correct?</p> <p>17 A. The full membership.</p> <p>18 Q. You felt confident that you</p> <p>19 could say that in front of the full membership,</p> <p>20 correct?</p> <p>21 A. I'm not allowed to? I'm a</p> <p>22 member, right?</p> <p>23 Q. You stood up and did it, didn't</p> <p>24 you?</p>	<p style="text-align: right;">Page 196</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. And while you're still</p> <p>3 standing -- are you standing at this point or</p> <p>4 are you sitting in your chair?</p> <p>5 MR. HAINES: Can we stop here?</p> <p>6 You go outside. I want you outside.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 now 4:38, this ends Media Unit No. 1.</p> <p>9 MR. HAINES: Please stay on the</p> <p>10 record.</p> <p>11 What are we doing?</p> <p>12 MR. PODRAZA: You know what</p> <p>13 we're doing. You want to pull him? You</p> <p>14 pull him and we go to Judge McHugh.</p> <p>15 MR. HAINES: I don't care if we</p> <p>16 go to the Pope.</p> <p>17 MR. PODRAZA: You know exactly</p> <p>18 what we're doing, and you're interfering</p> <p>19 with that. You're here as personal</p> <p>20 counsel. You don't even have a notice of</p> <p>21 representation on record, and you have</p> <p>22 intervened. You have no right to do</p> <p>23 this, none.</p> <p>24 MR. HAINES: Get your finger out</p>

CHARLES BATTLE

Page 197	Page 199
<p>1 of my face.</p> <p>2 MR. PODRAZA: Haines, you have</p> <p>3 no right to do this.</p> <p>4 MR. HAINES: Get your finger out</p> <p>5 of my face.</p> <p>6 MR. PODRAZA: So, bring your</p> <p>7 witness back in so we can complete.</p> <p>8 MR. HAINES: No. No. You're</p> <p>9 not going to do this.</p> <p>10 MR. PODRAZA: You're calling the</p> <p>11 deposition? You're calling it an</p> <p>12 expense? Are you calling it?</p> <p>13 MR. HAINES: Don't threaten me.</p> <p>14 MR. PODRAZA: I'm not</p> <p>15 threatening you. I'm asking what are you</p> <p>16 doing?</p> <p>17 MR. HAINES: You're raising your</p> <p>18 voice, you're threatening me.</p> <p>19 MR. PODRAZA: Are you calling</p> <p>20 it?</p> <p>21 MR. HAINES: Now, I am telling</p> <p>22 you this is a fact deposition.</p> <p>23 MR. PODRAZA: It is a fact</p> <p>24 deposition.</p>	<p>1 line.</p> <p>2 MR. HAINES: And you are acting</p> <p>3 inappropriately.</p> <p>4 MR. PODRAZA: Write it down. He</p> <p>5 called the deposition. We will be filing</p> <p>6 a motion with the Court.</p> <p>7 Thank you.</p> <p>8 MS. DeBRUICKER: Counsel.</p> <p>9 MR. HAINES: No, no, walk out.</p> <p>10 I want him to walk out. Nobody called</p> <p>11 the deposition. He walked out on it.</p> <p>12 MR. PODRAZA: Your witness isn't</p> <p>13 even here for God's sake. You're letting</p> <p>14 him in. You're letting him in, Cliff?</p> <p>15 MR. HAINES: Walk out. Cool</p> <p>16 down and decide whether you want to come</p> <p>17 back here and act like a lawyer.</p> <p>18 MR. PODRAZA: I'm calm, cool and</p> <p>19 --</p> <p>20 MR. HAINES: I asked my client</p> <p>21 to step out so that you and I --</p> <p>22 MR. PODRAZA: Ask him to step</p> <p>23 in. Let's go, Cliff. We're not going to</p> <p>24 stay here all night with these antics.</p>
Page 198	Page 200
<p>1 MR. HAINES: It is not about</p> <p>2 what happened last Tuesday. If you want</p> <p>3 to ask him questions, historical</p> <p>4 questions, do that. If Mr. Dougherty</p> <p>5 wants to testify about a conversation</p> <p>6 that he had with my client, he can do</p> <p>7 that, but that's not the purpose. You</p> <p>8 are trying --</p> <p>9 MR. PODRAZA: Mr. Haines, you</p> <p>10 are not even counsel of record. How dare</p> <p>11 you come here and tell us about our</p> <p>12 subject matter of this case? Counsel for</p> <p>13 the government hasn't even objected. How</p> <p>14 dare you?</p> <p>15 MR. HAINES: Excuse me?</p> <p>16 MR. PODRAZA: The witness comes</p> <p>17 in or you do this at your own cost and</p> <p>18 expense.</p> <p>19 MR. HAINES: Excuse me?</p> <p>20 MR. PODRAZA: You have no right</p> <p>21 to do this. You are out of line.</p> <p>22 MR. HAINES: Excuse me? What</p> <p>23 did you say? How dare you?</p> <p>24 MR. PODRAZA: And you are out of</p>	<p>1 These childhood antics, they might work</p> <p>2 in other forms, we're not going to put up</p> <p>3 with it.</p> <p>4 MS. DeBRUICKER: Counsel for the</p> <p>5 government will put on the record that</p> <p>6 none of this questioning is relevant to</p> <p>7 the legal issues in this case. It is</p> <p>8 relevant to the procedural issues in this</p> <p>9 case. To the extent that you're asking</p> <p>10 him questions that could be construed as</p> <p>11 intimidation.</p> <p>12 MR. HAINES: They are clearly</p> <p>13 intended to intimidate. Clearly</p> <p>14 intended.</p> <p>15 MR. PODRAZA: Are we bringing</p> <p>16 the witness back in or are we done?</p> <p>17 MR. HAINES: I want you to stop</p> <p>18 intimidating my client.</p> <p>19 MR. PODRAZA: I don't think --</p> <p>20 MR. HAINES: I don't care what</p> <p>21 you think.</p> <p>22 MR. PODRAZA: Mr. Haines, we</p> <p>23 have a video tape. Are we bringing the</p> <p>24 witness in or not?</p>

CHARLES BATTLE

<p style="text-align: right;">Page 201</p> <p>1 MR. HAINES: That's right. We</p> <p>2 do. We do. And you are acting</p> <p>3 inappropriately. This is not proper</p> <p>4 deposition.</p> <p>5 MR. PODRAZA: Are we bringing</p> <p>6 the witness in or not?</p> <p>7 MR. HAINES: You canceled the</p> <p>8 deposition. You put your coat on and</p> <p>9 told us the deposition was over, and</p> <p>10 you're going to file a motion. Walk out.</p> <p>11 MR. PODRAZA: Mr. Haines, are</p> <p>12 you bringing your witness in or not?</p> <p>13 MR. HAINES: I suggest that you</p> <p>14 walk out and cool down, and maybe I will</p> <p>15 do the same thing.</p> <p>16 MR. PODRAZA: Mr. Haines.</p> <p>17 MR. HAINES: And maybe you can</p> <p>18 talk to your co-counsel, and maybe you</p> <p>19 can get Mr. Dougherty to talk to you.</p> <p>20 There is no dispute about what happened</p> <p>21 last Tuesday. What the hell does that</p> <p>22 got to do with anything? Who is wasting</p> <p>23 time here?</p> <p>24 MR. PODRAZA: Well, we have a</p>	<p style="text-align: right;">Page 203</p> <p>1 number?</p> <p>2 MR. TRASK: I don't know if Mr.</p> <p>3 Morton had it. Lauren had it readily</p> <p>4 available last time.</p> <p>5 MS. DeBRUICKER: We will need to</p> <p>6 hang up with the other lawyer.</p> <p>7 MR. PODRAZA: Cliff, we have a</p> <p>8 few more questions along this line. Can</p> <p>9 we have this done?</p> <p>10 MR. HAINES: No. Quit this</p> <p>11 threatening me. Call the Judge. You</p> <p>12 think you're on the right side? You</p> <p>13 think you're on God's side? Call the</p> <p>14 Judge. I'm interested in hearing what</p> <p>15 you're going to tell him. And then I'll</p> <p>16 ask you to read the record back to the</p> <p>17 Judge that you are calling the</p> <p>18 deposition.</p> <p>19 MR. PODRAZA: I'm sorry. Who is</p> <p>20 on the phone right now?</p> <p>21 MS. DeBRUICKER: Anna Laura is</p> <p>22 on the phone. She is prepared for you to</p> <p>23 hang up the phone and --</p> <p>24 MR. PODRAZA: Anna, we're going</p>
<p style="text-align: right;">Page 202</p> <p>1 few more questions, and you will see the</p> <p>2 relevance, if you don't see it already.</p> <p>3 MR. HAINES: Oh, I know the</p> <p>4 relevancy. I understand the relevancy.</p> <p>5 MR. PODRAZA: Are we going to</p> <p>6 proceed?</p> <p>7 MR. HAINES: This is not, this</p> <p>8 is not your opportunity to impeach Mr.</p> <p>9 Battle. You can ask him fact questions</p> <p>10 related to this action. You called the</p> <p>11 deposition. It's on the record. Are you</p> <p>12 backing off that?</p> <p>13 MR. PODRAZA: I'm willing to go</p> <p>14 forward.</p> <p>15 MR. HAINES: No, no, no. You</p> <p>16 called the deposition. You told the</p> <p>17 court reporter you were going to file a</p> <p>18 motion. Is that what you're going to do?</p> <p>19 Then file your motion.</p> <p>20 MR. PODRAZA: I take it you will</p> <p>21 not bring your witness back?</p> <p>22 MR. HAINES: I didn't say that.</p> <p>23 You called the deposition. I didn't.</p> <p>24 MR. PODRAZA: What's the Court's</p>	<p style="text-align: right;">Page 204</p> <p>1 to have to hang this up.</p> <p>2 MS. BENNETT: Okay.</p> <p>3 MR. PODRAZA: All right. Thank</p> <p>4 you. What do we have for chambers? Can</p> <p>5 I have the caption for the case?</p> <p>6 MS. DeBRUICKER: I don't think</p> <p>7 you'll need it. Are you ready?</p> <p>8 MR. PODRAZA: Oh, yeah.</p> <p>9 MS. DeBRUICKER: (267) 299-7301.</p> <p>10 MR. PODRAZA: I'm sorry. I did</p> <p>11 that wrong. 267 --</p> <p>12 MS. DeBRUICKER: 299 --</p> <p>13 MR. PODRAZA: I'm sorry. He's</p> <p>14 got it written down here. Can you hand</p> <p>15 me that e-mail?</p> <p>16 MS. DeBRUICKER: I'm calling</p> <p>17 from my phone.</p> <p>18 MS. BENNETT: Okay. Thanks.</p> <p>19 MR. TRASK: 299-7301.</p> <p>20 THE CLERK: Judge McHugh's</p> <p>21 chambers.</p> <p>22 MR. PODRAZA: Hi, good</p> <p>23 afternoon. My name is Joe Podraza, I'm a</p> <p>24 lawyer with Lamb McErlane.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 205</p> <p>1 I'm at a deposition in a case</p> <p>2 that's been assigned to his Honor, and we</p> <p>3 have an issue that has arisen in the</p> <p>4 deposition.</p> <p>5 THE CLERK: Okay. An issue that</p> <p>6 arose in the deposition?</p> <p>7 MR. PODRAZA: Yeah.</p> <p>8 THE CLERK: What's the Docket</p> <p>9 Number?</p> <p>10 MR. PODRAZA: 2:2100096, it's</p> <p>11 the Secretary of Labor v. Local 98.</p> <p>12 THE CLERK: Uh-huh, yep. And</p> <p>13 what's the issue with the deposition?</p> <p>14 MR. PODRAZA: Well, personal</p> <p>15 counsel for the witness has asked him to</p> <p>16 leave the room, and we're going back and</p> <p>17 forth trying to restore the deposition,</p> <p>18 so we can proceed, and unfortunately,</p> <p>19 it's going to have to be an issue, I take</p> <p>20 it, that we're going to need an</p> <p>21 intercession by the Court.</p> <p>22 THE CLERK: Okay. Give me one</p> <p>23 second. Let me check with him.</p> <p>24 MR. PODRAZA: Thank you.</p>	<p style="text-align: right;">Page 207</p> <p>1 THE COURT: All right. What's</p> <p>2 the issue this time?</p> <p>3 MR. PODRAZA: Well, we've</p> <p>4 touched upon an emotional part of the</p> <p>5 deposition where we're trying to</p> <p>6 discredit the claim of intimidation, and</p> <p>7 retaliation, and we're using it as a</p> <p>8 typical case, the most recent union</p> <p>9 member meeting this past Tuesday, where</p> <p>10 Mr. Battle appeared without any</p> <p>11 reservations, spoke up against</p> <p>12 leadership, use coarse words, accused</p> <p>13 leadership of various things, and then</p> <p>14 also conceded that his dislike for the</p> <p>15 leadership is based upon the failure of</p> <p>16 his son-in-law, over many years, to be</p> <p>17 put into the apprentice program, and</p> <p>18 we're trying to bring this out in the</p> <p>19 questioning. We think we are being</p> <p>20 successful. Counsel stopped the line of</p> <p>21 questioning, and had the witness depart</p> <p>22 the room.</p> <p>23 THE COURT: All right. So let</p> <p>24 me hear from Mr. Haines.</p>
<p style="text-align: right;">Page 206</p> <p>1 THE COURT: Counsel, this is</p> <p>2 Judge McHugh. Who is on the line,</p> <p>3 please?</p> <p>4 MR. PODRAZA: Your Honor, Joe</p> <p>5 Podraza, with me, Clifford Haines,</p> <p>6 personal counsel for the witness, and</p> <p>7 Lauren DeBruicker, obviously for the</p> <p>8 government, Department of Labor.</p> <p>9 MR. HAINES: And Mr. Dougherty</p> <p>10 and several other people, Judge.</p> <p>11 MR. PODRAZA: And, Your Honor, I</p> <p>12 also would like to bring to the Court's</p> <p>13 attention, you're on the record, unless</p> <p>14 you're asking to go off the record?</p> <p>15 THE COURT: I was about to ask,</p> <p>16 are we on the record? And then can</p> <p>17 somebody please tell me who the witness</p> <p>18 is.</p> <p>19 MR. PODRAZA: The witness is</p> <p>20 Charlie Battle, Your Honor.</p> <p>21 THE COURT: So, Mr. Battle has</p> <p>22 returned, I take it for a second day?</p> <p>23 MR. PODRAZA: He has, Your</p> <p>24 Honor.</p>	<p style="text-align: right;">Page 208</p> <p>1 MR. HAINES: Your Honor, Mr.</p> <p>2 Podraza is correct up to a point. The</p> <p>3 last 10 minutes, 15 minutes, have been a</p> <p>4 back and forth with interrogating Mr.</p> <p>5 Battle about apparently a give and take</p> <p>6 between him and Mr. Dougherty last</p> <p>7 Tuesday. I'm not quite sure what that</p> <p>8 has to do with this case, nor am I sure</p> <p>9 that the purpose of a deposition is to</p> <p>10 impeach a witness, but I am sure that</p> <p>11 it's not to intimidate that witness, and</p> <p>12 this question in the presence of Mr.</p> <p>13 Dougherty, and representatives of the</p> <p>14 union is nothing but intimidation. I</p> <p>15 asked my witness to step out of the room</p> <p>16 in order to raise with Mr. Podraza what</p> <p>17 he thought we were doing here. I thought</p> <p>18 we were here, I got a diatribe of how I'm</p> <p>19 not entitled to be here, I haven't</p> <p>20 entered my appearance, don't interfere, a</p> <p>21 hostile response, Mr. Podraza put his</p> <p>22 coat on, said we're calling this</p> <p>23 deposition, said I'm filing a motion.</p> <p>24 Obviously, he's got the ability to be as</p>

CHARLES BATTLE

<p style="text-align: right;">Page 209</p> <p>1 hot-headed as I do, but I stopped simply</p> <p>2 to challenge what I thought was the</p> <p>3 intimidation of my client. I am prepared</p> <p>4 to proceed, but I would like some</p> <p>5 guidance from the Court, since the call</p> <p>6 has been made, about whether this is</p> <p>7 appropriate line of questioning at a</p> <p>8 deposition.</p> <p>9 THE COURT: Is the deposition</p> <p>10 being videotaped, counsel?</p> <p>11 MR. PODRAZA: It is, Your Honor.</p> <p>12 We have taken that measure.</p> <p>13 THE COURT: All right. Let me</p> <p>14 hear from the Department of Labor, if I</p> <p>15 may.</p> <p>16 MS. DeBRUICKER: Your Honor, I</p> <p>17 agree that last many minutes and that</p> <p>18 line of questioning is not relevant to</p> <p>19 the narrow issue in this case, which is</p> <p>20 whether the secretary's investigation of</p> <p>21 Mr. Battle's complaint determined by,</p> <p>22 yielded by a preponderance of the</p> <p>23 evidence that the Local 98's membership</p> <p>24 election may have been influenced by the</p>	<p style="text-align: right;">Page 211</p> <p>1 expressing that the reason that he is</p> <p>2 discontent with the union leadership is</p> <p>3 not due to an indictment or irresponsible</p> <p>4 behavior, but because the leadership</p> <p>5 failed to allow his son-in-law to be</p> <p>6 placed in the apprentice program --</p> <p>7 THE COURT: Okay. Let me</p> <p>8 interrupt you, Mr. Podraza, and you</p> <p>9 elicited 10 minutes of that from Mr.</p> <p>10 Battle; is that correct?</p> <p>11 MR. PODRAZA: I wouldn't say 10</p> <p>12 minutes, but we've gotten probably about</p> <p>13 a half of the way through.</p> <p>14 THE COURT: All right. And</p> <p>15 isn't it obvious at this point, and it's</p> <p>16 really a factual dispute that he stood up</p> <p>17 at meetings and showed his convictions in</p> <p>18 a potentially intimidating atmosphere,</p> <p>19 with that point having been made, for</p> <p>20 whatever relevance it might have, and</p> <p>21 with this being a nonjury proceeding</p> <p>22 where I will look at this video and make</p> <p>23 any judgment I need to make, is it really</p> <p>24 important to going further?</p>
<p style="text-align: right;">Page 210</p> <p>1 union, and not corrected by the union.</p> <p>2 Whether Mr. Battle spoke with confidence</p> <p>3 or any other characteristic at a union</p> <p>4 meeting last Tuesday bears no</p> <p>5 relationship to the issues in this case.</p> <p>6 THE COURT: I have to say, at</p> <p>7 this juncture, it is difficult for me to</p> <p>8 see where we are with something that</p> <p>9 happened last Tuesday.</p> <p>10 MR. PODRAZA: If I may, Your</p> <p>11 Honor, it's Joe Podraza. The point of</p> <p>12 the matter is, these individuals, we call</p> <p>13 them malcontents, whatever you want to</p> <p>14 refer to them as, have claimed that they</p> <p>15 have been intimidated. They are in an</p> <p>16 intimidating atmosphere, they can't speak</p> <p>17 up because of an overbearing leadership,</p> <p>18 but yet this gentleman by way of</p> <p>19 illustration, even as late as this past</p> <p>20 Tuesday, at membership meeting, not only</p> <p>21 stands up in front of 100 to 150 members</p> <p>22 of the union, but then proceeds to berate</p> <p>23 the leadership, refer to them using the P</p> <p>24 word, using other vulgarity, and then</p>	<p style="text-align: right;">Page 212</p> <p>1 MR. PODRAZA: The only point I</p> <p>2 would make, Your Honor, is that the</p> <p>3 intimidation is not coming from the union</p> <p>4 and its leadership, but in fact, Mr.</p> <p>5 Battle himself, imposing himself at the</p> <p>6 proceeding, and seeking to intimidate vis</p> <p>7 a vis, abusive behavior. And I think</p> <p>8 it's important for the Court to see, this</p> <p>9 is not a shrinking violet who is fearful</p> <p>10 of the shambles of the leadership of the</p> <p>11 union. This is an individual --</p> <p>12 THE COURT: I, I, I, I</p> <p>13 understand your point, counsel, okay?</p> <p>14 And so, I think we're, where I am at this</p> <p>15 juncture is for whatever relevance it</p> <p>16 has, it strikes me that the point has</p> <p>17 been made, and given that, and given</p> <p>18 history between the, what I'll call the</p> <p>19 antagonist here, then I just don't think</p> <p>20 it is a need to go further.</p> <p>21 MR. PODRAZA: The only other --</p> <p>22 MR. HAINES: Thank you, Judge.</p> <p>23 MR. PODRAZA: The only guidance,</p> <p>24 though, Your Honor, by interjection of</p>

CHARLES BATTLE

<p style="text-align: right;">Page 213</p> <p>1 personal counsel, we actually didn't get</p> <p>2 Mr. Battle to respond to the aspects of</p> <p>3 his presentation at this past meeting,</p> <p>4 that we believe establishes the point</p> <p>5 that the Court is touching upon.</p> <p>6 MR. HAINES: Your Honor, may I</p> <p>7 have, this is Mr. Haines. May I respond?</p> <p>8 THE COURT: Yes, you may.</p> <p>9 MR. HAINES: We spent another 10</p> <p>10 minutes discussing Mr. Battle's</p> <p>11 son-in-law not getting into the</p> <p>12 apprentice program. Why he didn't, what</p> <p>13 Mr. Dougherty did, why it's the rule that</p> <p>14 you can't get in if you fail a drug test,</p> <p>15 don't you know that, that lasts forever?</p> <p>16 We did that for 10 minutes without</p> <p>17 objection, Judge. This is just, let's</p> <p>18 see how long we can beat up on Charlie</p> <p>19 Battle, and maybe we will back him down.</p> <p>20 THE COURT: All right. I</p> <p>21 understand the parties' respective</p> <p>22 positions. I think I understand what the</p> <p>23 relevant issues are in the case, and Mr.</p> <p>24 Podraza, I don't see the need to go any</p>	<p style="text-align: right;">Page 215</p> <p>1 THE COURT: All right. And I'm</p> <p>2 not going to offer you my cell phone.</p> <p>3 I'm just going to ask you to be officers</p> <p>4 of the Court, and make the point you need</p> <p>5 to make, and then terminate the</p> <p>6 examination.</p> <p>7 MR. PODRAZA: Very well, Your</p> <p>8 Honor, thank you.</p> <p>9 THE COURT: Anything further,</p> <p>10 counsel?</p> <p>11 MS. DeBRUICKER: Actually, Your</p> <p>12 Honor, while we have you on the phone,</p> <p>13 when we were last here, we called the</p> <p>14 Court regarding a line of questioning</p> <p>15 asking Mr. Battle to disclose the names</p> <p>16 of people who may have been involved or</p> <p>17 consulted with in connection with his</p> <p>18 communications with the Secretary of</p> <p>19 Labor. We have not revisited that line</p> <p>20 of questioning. I don't know whether Mr.</p> <p>21 Podraza intends to revisit that line of</p> <p>22 questioning. To the extent that he does,</p> <p>23 the government has a, partly a</p> <p>24 recommendation, partly a request, Your</p>
<p style="text-align: right;">Page 214</p> <p>1 further down this path at this juncture.</p> <p>2 MR. PODRAZA: Very well, Your</p> <p>3 Honor.</p> <p>4 THE COURT: All right. So, my</p> <p>5 instruction would be that you proceed to</p> <p>6 your next line of questioning, and you</p> <p>7 know, all parties can be certain that I'm</p> <p>8 perfectly capable of watching this</p> <p>9 videotape. If it's relevant at the</p> <p>10 appropriate time, and so that I can</p> <p>11 decide, particularly since it's already</p> <p>12 clear to me, based upon the submissions</p> <p>13 in this case that there is a history here</p> <p>14 between Mr. Battle and the union, and</p> <p>15 some of the leaders in the union, and</p> <p>16 that's self-evident. All right? So, I</p> <p>17 think at this point you should move on to</p> <p>18 your next line of questioning.</p> <p>19 Are we going to finish with Mr.</p> <p>20 Battle today?</p> <p>21 MR. PODRAZA: We definitely,</p> <p>22 Your Honor, probably, unless counsel for</p> <p>23 DOL have an extensive examination, within</p> <p>24 an hour at the latest.</p>	<p style="text-align: right;">Page 216</p> <p>1 Honor. Your Honor put the transcript of</p> <p>2 this deposition under seal during our</p> <p>3 last conversation. The government</p> <p>4 suggests that, that line of questioning,</p> <p>5 both from Mr. Battle, as well as for</p> <p>6 other witnesses, who Mr. Podraza has</p> <p>7 described to the court as malcontents,</p> <p>8 that Your Honor consider putting these</p> <p>9 deposition transcripts not only under</p> <p>10 seal, but designate them as attorneys</p> <p>11 eyes only, so that they can only be</p> <p>12 viewed to Local 98's very able outside</p> <p>13 counsel of record, such that union</p> <p>14 leaders then would not be privy to this</p> <p>15 testimony, at least until later time when</p> <p>16 the parties have a chance to review it</p> <p>17 and determine the possible effect on</p> <p>18 other witnesses who may yet come forward.</p> <p>19 THE COURT: All right. Let me</p> <p>20 hear from Mr. Podraza.</p> <p>21 MR. PODRAZA: Well, Your Honor,</p> <p>22 the transcript is under seal. I don't</p> <p>23 know what more protection would be</p> <p>24 required, but second, it's insulting to</p>

CHARLES BATTLE

<p style="text-align: right;">Page 217</p> <p>1 my client who is present to accept that 2 proposal without then accepting that he 3 is a thug and that there is, therefore, 4 fear by the Court of physical violence. 5 There has never been fear of physical 6 violence, even alleged in this, and in 7 fact, the government has even denied 8 that. By Mr. Battle's own account, he 9 has never lost any work, et cetera, 10 despite the disagreement, despite what 11 transpired in the nomination proceeding. 12 There is nothing establishing before this 13 court to establish that beyond just 14 simply the shear speculation and 15 conjecture being thrown, and quite 16 frankly the stereotyping of what the 17 union is stereotyped as, and I would ask 18 the court not to go to that degree, and 19 condone what is essentially the 20 government saying they are goons. 21 THE COURT: First of all, on the 22 record, I'm implying nothing that from 23 you know of witnesses or litigants or 24 lawyers, and particularly in that cast an</p>	<p style="text-align: right;">Page 219</p> <p>1 interim step being requested by the 2 Department, and to the extent that it is 3 such an interim step, I will approve 4 that, but again, let me be clear, I 5 understand there is strong feeling within 6 the union among past and present 7 leadership, and members. I don't draw 8 any negative inferences from that, you 9 know, people can have strong views. 10 MS. DeBRUICKER: Your Honor, may 11 I address one more point? 12 THE COURT: You may. 13 MS. DeBRUICKER: Thank you. I 14 would submit, Your Honor, that the 15 presence of union leadership in these 16 depositions is, without casting 17 aspersions, without making argument that 18 counsel already has, is having an impact 19 on the witnesses. There has been 20 testimony that there have been, you know, 21 communications with witnesses who have 22 come forward in this case with the 23 indication that there has been attempts 24 to persuade people not to testify; I will</p>
<p style="text-align: right;">Page 218</p> <p>1 aspersion on organized labor. 2 Second, I understood counsel for 3 the department merely to say that counsel 4 would first like the chance to look at it 5 to determine whether there is something 6 of any particular sensitivity, and before 7 the transcript is shared, I mean, to the 8 extent that the parties are in the room, 9 they know what the witness has said, and 10 our last setting, I think we made 11 reference to the presence of social media 12 and how things get posted, and bandied 13 about, and that's never particularly a 14 good thing, so not casting any 15 aspersions, I think that it's an 16 appropriate question of the Department to 17 say, at least initially, transcripts, 18 we're not limiting anybody's ability to 19 be present, but transcripts will be 20 attorneys eyes only, and then after 21 counsel has had an opportunity to review 22 them, that if there is some additional 23 limitation, we will flush it out at that 24 point. So, I take it as simply an</p>	<p style="text-align: right;">Page 220</p> <p>1 note that Mr. Podraza did attempt to 2 subpoena Mr. Coppinger who is one of the 3 three union members at issue within the 4 Complaint. Mr. Coppinger was not 5 successfully served with a subpoena, and 6 I do believe that witnesses will be more 7 willing to come forward if union 8 leadership were not in the deposition 9 room for these depositions, again with 10 the opportunity to, you know, in the 11 interest of having the questions 12 answered, that counsel wishes to pose, as 13 well as witnesses to come forward who 14 counsel wishes to speak with, that the 15 appropriate, that it would be appropriate 16 to consider the attorneys eyes only 17 measure to include people in the room, 18 while the, again using Mr. Podraza's 19 word, malcontent witnesses, so any other 20 witness who may wish to speak in a way 21 that the union may not find favorable, to 22 have that protection to come forward. 23 THE COURT: Well, if we were in 24 a courtroom and I was hearing testimony,</p>

CHARLES BATTLE

<p style="text-align: right;">Page 221</p> <p>1 that would be hard pressed to say that</p> <p>2 the union wouldn't have the right to be</p> <p>3 present, and I think that would be, for</p> <p>4 me to enter such a ruling to extend the</p> <p>5 deposition would necessarily be drawing</p> <p>6 inferences within the present time I'm</p> <p>7 not willing to draw. Look, I'll agree</p> <p>8 that it's obviously a great deal of</p> <p>9 social pressure on the part of those</p> <p>10 weren't current union membership, who</p> <p>11 reserve their rights and be asserted, but</p> <p>12 I don't think it's appropriate ruling</p> <p>13 that union membership can't be present</p> <p>14 for this. And if Mr. Coppinger is served</p> <p>15 and if there is some question about any</p> <p>16 reluctance to appear, and necessary for</p> <p>17 me to be involved in some way, even if we</p> <p>18 need to have the deposition here at the</p> <p>19 courthouse with me immediately available,</p> <p>20 we'll discuss that, if and when the time</p> <p>21 comes, but I'm not prepared now to enter</p> <p>22 an order that would bar union leadership</p> <p>23 from attending.</p> <p>24 MR. PODRAZA: Thank you, Your</p>	<p style="text-align: right;">Page 223</p> <p>1 remember the last deposition, after I</p> <p>2 ruled in favor of Mr. Haines, and he</p> <p>3 wanted to add something, you said, Mr.</p> <p>4 Haines, you forgot the point. I expect</p> <p>5 Mr. Haines is sitting here wanting to</p> <p>6 issue that same rejoinder.</p> <p>7 MR. HAINES: Judge --</p> <p>8 MR. PODRAZA: You are right,</p> <p>9 Your Honor.</p> <p>10 MR. HAINES: Judge, I have no</p> <p>11 rejoinder, but I have concerns, and there</p> <p>12 are two areas that Mr. Podraza has</p> <p>13 indicated he is going to explore further,</p> <p>14 that may require your Honor's</p> <p>15 intervention.</p> <p>16 As counsel for the Department of</p> <p>17 Labor has pointed out, we kind of ended</p> <p>18 on a note of nonresponsiveness from the</p> <p>19 witness, I agree. I anticipate that Mr.</p> <p>20 Podraza is going to go back there, and I</p> <p>21 don't know what --</p> <p>22 THE COURT: No, no. He is not,</p> <p>23 because I ruled that he won't.</p> <p>24 MR. HAINES: Well, no, I'm not</p>
<p style="text-align: right;">Page 222</p> <p>1 Honor. It's Joe Podraza. I would also</p> <p>2 like to draw the Court's attention that</p> <p>3 Mr. Dougherty was present during Mr.</p> <p>4 McConnell's deposition, the government</p> <p>5 never made such a motion, and Mr.</p> <p>6 McConnell said he had no problem</p> <p>7 whatsoever with the presence of Mr.</p> <p>8 Dougherty.</p> <p>9 We are now in the second day of</p> <p>10 this deponent, and there has been no</p> <p>11 suggestion that there is disruption or</p> <p>12 influence by having Mr. Dougherty or</p> <p>13 anyone else from the union here, nor has</p> <p>14 the government suggested it until this</p> <p>15 very day, on the tail end of the second</p> <p>16 day of Mr. Battle's deposition. I just</p> <p>17 wanted to bring that to the Court's</p> <p>18 attention, that there has only been</p> <p>19 professionalism in this conference room,</p> <p>20 and while Mr. Haines and I may have a</p> <p>21 disagreement here and there on two</p> <p>22 points, that's been the extent of any</p> <p>23 type of dispute.</p> <p>24 THE COURT: Yeah, Mr. Podraza, I</p>	<p style="text-align: right;">Page 224</p> <p>1 talking about, I'm not talking about what</p> <p>2 happened last Tuesday. I'm talking about</p> <p>3 a different issue, altogether. Mr.</p> <p>4 Podraza at the last deposition was</p> <p>5 challenging Mr. Battle about a letter</p> <p>6 that he had written, and who actually</p> <p>7 typed it, and the witness refused to</p> <p>8 answer the question, and that was the</p> <p>9 predicate for the call to you then. So,</p> <p>10 I anticipate we're going back there.</p> <p>11 There is a second concern I</p> <p>12 have, the Court may or may not be aware</p> <p>13 that the union has sued Mr. Battle and I</p> <p>14 won't characterize that for the moment,</p> <p>15 and there have been certain rulings out</p> <p>16 of the Court of Common Pleas, concerning</p> <p>17 information that Mr. Podraza tried to get</p> <p>18 in that proceeding. Should he go there,</p> <p>19 in this proceeding, and I anticipate he</p> <p>20 is going to try to do that. I'm going to</p> <p>21 instruct my witness not to answer, based</p> <p>22 on the fact that there is an order that</p> <p>23 Mr. Podraza is not entitled to the</p> <p>24 information he is seeking from my client.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 225</p> <p>1 Now, Mr. Podraza may tell you he 2 is not going down either road in which 3 event, have a pleasant evening, and I'll 4 be quiet. 5 MR. PODRAZA: Your Honor, there 6 was the Court ruling, as I understood it, 7 the first day of Mr. Battle's deposition, 8 when there was a dispute, was whether Mr. 9 Battle would be required to identify 10 those who participated in the drafting of 11 the documents, the protests, the appeal, 12 and then there is a third letter by a 13 third-party that was submitted at the 14 same time, and as I was candid with The 15 Court, it's our position with the union, 16 at least the union's position that smells 17 of staging, and they would like to 18 explore that. Mr. Haines -- there is no 19 such order in the state court that 20 precludes that. What Mr. Haines is 21 making reference to is with respect to 22 the website and anonymous posters, you 23 need to establish, obviously, overcoming 24 the person that has protection of</p>	<p style="text-align: right;">Page 227</p> <p>1 not going to answer the question, then, 2 and it's not because of your instruction, 3 at the appropriate time I assume Mr. 4 Podraza will file a motion for me, and it 5 will be briefed and argued, and I will 6 make a ruling about whether the witness 7 has to answer the question. 8 MR. HAINES: Great. That makes 9 sense. Simple, then we don't have to 10 call you. 11 THE COURT: You know, we're 12 getting to a point, counsel, where I 13 think positions are going to tend to 14 border on frivolous, right, particularly 15 if you look at what the legal standard is 16 going to be down stream, so Mr. Podraza, 17 do you anticipate, sitting here now, any 18 other radioactive hearing inquiry? 19 MR. PODRAZA: I don't think so, 20 Your Honor, I think we pretty much 21 covered them. 22 THE COURT: All right. And if 23 the witness takes the position, that will 24 be addressed in the appropriate way and</p>
<p style="text-align: right;">Page 226</p> <p>1 anonymity, and that we are working with 2 the state court to do, so we can get the 3 identity for the defamation case. A 4 completely different issue, so therefore 5 I don't understand, and I would ask the 6 Court to reaffirm his ruling that Mr. 7 Battle will be required to identify who 8 are the participants in the three letters 9 that have been marked, the protest 10 letter, the June 6th letter, and the 11 third-party letter that was filed at or 12 about the same time as the protest was 13 taken to the IBP. 14 MR. HAINES: Your Honor, that's 15 not the ruling. Mr. Podraza has a way 16 with words that don't always characterize 17 accurately what happened. What Your 18 Honor ruled was that I could not object, 19 and I won't, but that doesn't mean that 20 Mr. Battle is going to give Mr. Podraza 21 what he wants. And we will be back 22 before the Court -- 23 THE COURT: Mr. Haines, here is 24 where we are, if the witness says, I'm</p>	<p style="text-align: right;">Page 228</p> <p>1 hear motion practice at the appropriate 2 time, if counsel thinks the answers to 3 those questions are of significance. 4 MR. PODRAZA: Very well, thank 5 you, Your Honor, and thank you for the 6 directive. 7 MR. HAINES: Thank you, Judge. 8 MS. DeBRUICKER: Thank you, Your 9 Honor. 10 MR. PODRAZA: I think that's the 11 end. 12 THE VIDEOGRAPHER: The time is 13 now 5:27, this begins Media Unit No. 2, 14 we're back on the record. 15 BY MR. PODRAZA: 16 Q. All right. Mr. Battle, at your 17 prior day of deposition you were asked a series 18 of questions regarding letters, the June 6th 19 letter, the June 16th letter, which is the 20 protest let from the nomination proceeding, as 21 well as, I believe the gentleman Helgash 22 (phonetic); does that -- did I pronounce that 23 right? 24 A. I don't think I, I think that's</p>

CHARLES BATTLE

<p style="text-align: right;">Page 229</p> <p>1 it, yeah.</p> <p>2 Q. I'd like you, if you could put</p> <p>3 those letters in front of you, they would be</p> <p>4 Exhibits No. 2, 3, and 4, and starting with</p> <p>5 what we marked as Battle No. 2, this is that</p> <p>6 June 6th, 2020 letter.</p> <p>7 A. Uh-huh.</p> <p>8 Q. I'm going to ask you again,</p> <p>9 first, who typed it?</p> <p>10 A. I'm not answering that question.</p> <p>11 Q. Second, who participated in the</p> <p>12 drafting of the letter?</p> <p>13 A. I can't even tell you the amount</p> <p>14 of people, so it was a lot of people.</p> <p>15 Q. Give me who you can recall?</p> <p>16 A. No. I don't know who did what.</p> <p>17 I don't recall.</p> <p>18 Q. And who made any contributions</p> <p>19 to any content of the letter?</p> <p>20 A. I don't recall.</p> <p>21 Q. Who provided you with a copy to</p> <p>22 review prior to your signature?</p> <p>23 A. I don't recall.</p> <p>24 Q. Where were you when the letter</p>	<p style="text-align: right;">Page 231</p> <p>1 Haines' office or Mr. Haines himself have any</p> <p>2 involvement whatsoever, with respect to Battle</p> <p>3 No. 2?</p> <p>4 MR. HAINES: Objection, instruct</p> <p>5 you not to answer on the grounds of</p> <p>6 attorney/client privilege.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Are you going to follow that</p> <p>9 instruction?</p> <p>10 A. Sure.</p> <p>11 Q. All right. Now, let's start</p> <p>12 with, or I'm sorry, move on to Battle No. 3,</p> <p>13 this is the June 16th, 2020 letter?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Who assisted in the completion</p> <p>16 of what's been marked here as Battle No. 3?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall any participants</p> <p>19 who contributed to what has been marked here as</p> <p>20 Battle No. 3?</p> <p>21 A. I just remember talking to Frank</p> <p>22 about his situation.</p> <p>23 Q. Who is Frank?</p> <p>24 A. Helgash.</p>
<p style="text-align: right;">Page 230</p> <p>1 was provided to you for review?</p> <p>2 MS. DeBRUICKER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: Yeah, it's over a</p> <p>5 year ago, I don't remember.</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. Who was present with you while</p> <p>8 you reviewed it?</p> <p>9 A. I don't recall.</p> <p>10 Q. You did review the letter prior</p> <p>11 to signing it, correct?</p> <p>12 A. Yeah, yeah. The first letter</p> <p>13 we're talking about?</p> <p>14 Q. Right. We're talking about</p> <p>15 Battle No. 2?</p> <p>16 A. Okay.</p> <p>17 Q. Were you in the Philadelphia</p> <p>18 region when you were reviewing what has been</p> <p>19 marked here as Battle No. 2?</p> <p>20 A. I'd say, yes.</p> <p>21 Q. Were you at your home when you</p> <p>22 were reviewing Battle No. 2?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did anybody associated with Mr.</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. Anyone else?</p> <p>2 A. No.</p> <p>3 Q. What was the nature of the</p> <p>4 conversation with Mr. Helgash?</p> <p>5 A. He was just explaining to me</p> <p>6 what he had been through intimidation-wise and</p> <p>7 everything else with the hall.</p> <p>8 Q. And did you encourage him to</p> <p>9 send a letter to the IBP?</p> <p>10 A. Did I? No. Absolutely no.</p> <p>11 Q. Did Mr. Helgash express to you</p> <p>12 that he would be sending a letter?</p> <p>13 A. No.</p> <p>14 Q. Now, focusing on Battle No. 3,</p> <p>15 which is June 16, 2020?</p> <p>16 A. Uh-huh.</p> <p>17 Q. The protest letter, right?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Okay. Who supplied you a copy</p> <p>20 to review prior to your signature?</p> <p>21 MS. DeBRUICKER: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: I don't recall</p> <p>24 that.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 233</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. And where were you when the</p> <p>3 letter was presented to you for signature?</p> <p>4 A. Maybe on the job, maybe.</p> <p>5 Q. And who brought it to you?</p> <p>6 A. I don't remember.</p> <p>7 Q. Which job were you on?</p> <p>8 A. At this date it would have been</p> <p>9 Penn First.</p> <p>10 Q. And where is Penn First located?</p> <p>11 A. University of Pennsylvania.</p> <p>12 Q. And then drawing your attention</p> <p>13 to Exhibit No. 4, the letter I'm going to call</p> <p>14 that the Frank Helgash letter.</p> <p>15 A. Uh-huh.</p> <p>16 Q. Do you know of anybody who</p> <p>17 participated in the completion of that letter?</p> <p>18 A. No.</p> <p>19 Q. Do you know who actually typed</p> <p>20 up the letter?</p> <p>21 A. No.</p> <p>22 Q. Do you know how Mr. Helgash</p> <p>23 received a copy of it for signature?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 235</p> <p>1 question.</p> <p>2 Q. Did your wife participate in the</p> <p>3 completion of either Battle No. 2 or Battle 3?</p> <p>4 A. I'm not going to answer that</p> <p>5 question.</p> <p>6 Q. Did she participate in the, what</p> <p>7 we have marked here as Exhibit No. 4?</p> <p>8 A. I'm not going to answer that</p> <p>9 question.</p> <p>10 Q. You indicated earlier today that</p> <p>11 your wife is fearful of Mr. Dougherty, you</p> <p>12 specifically said that; is that correct?</p> <p>13 A. So, let me rephrase that. She</p> <p>14 is afraid of the union and what they represent</p> <p>15 -- well, she's afraid. She's afraid.</p> <p>16 Q. Has your wife ever interacted</p> <p>17 with Mr. Dougherty?</p> <p>18 A. I'm not going to say she's</p> <p>19 afraid of him, John Dougherty. She's afraid of</p> <p>20 the Dougherty machine, let's put it that way.</p> <p>21 Q. Has your wife every interacted</p> <p>22 with Mr. Dougherty.</p> <p>23 A. Not that I know of. You have to</p> <p>24 ask her.</p>
<p style="text-align: right;">Page 234</p> <p>1 Q. Have you ever spoken to Mr.</p> <p>2 Helgash regarding the completion of what has</p> <p>3 been marked here as Exhibit No. 4?</p> <p>4 A. No.</p> <p>5 Q. And going back to Battle No. 3,</p> <p>6 forgive me if I asked this already, who typed</p> <p>7 Battle No. 3?</p> <p>8 A. You asked me that already.</p> <p>9 Q. And your answer, just to make</p> <p>10 sure, in case.</p> <p>11 A. Yeah, I'm not going to answer</p> <p>12 that.</p> <p>13 Q. Do you have word processing</p> <p>14 available to you to type any one of these three</p> <p>15 letters?</p> <p>16 MS. DeBRUICKER: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: Meaning -- I don't</p> <p>19 understand the question.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. Sure. Do you have a printer or</p> <p>22 laptop? Did you type what has been marked as</p> <p>23 either Battle No. 2 or Battle No. 3?</p> <p>24 A. I'm not going to answer that</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. And you have been with the union</p> <p>2 for how long?</p> <p>3 A. Thirty years.</p> <p>4 Q. And you have been married for</p> <p>5 how long?</p> <p>6 A. Married? Thirty-four years.</p> <p>7 Q. And what is it about the union</p> <p>8 machine, in quotes, that you think your wife is</p> <p>9 afraid of?</p> <p>10 A. You would have to ask her.</p> <p>11 Q. Well, I'm asking you.</p> <p>12 A. How can I answer that question</p> <p>13 for my wife?</p> <p>14 Q. I'm asking you what is your</p> <p>15 understanding of the fear that she has for the,</p> <p>16 quote, union machine?</p> <p>17 A. You would have to ask her.</p> <p>18 Q. You have no understanding</p> <p>19 separate from her?</p> <p>20 A. You have to ask her that</p> <p>21 question. I cannot put words in my wife's</p> <p>22 mouth.</p> <p>23 Q. I'm asking you what do you</p> <p>24 understand is your wife's fear --</p>

CHARLES BATTLE

<p style="text-align: right;">Page 237</p> <p>1 A. You're asking me what I'm afraid 2 of? 3 Q. No. I'm asking what is your 4 understanding of your wife's fear of the quote, 5 union machine? 6 A. You would have to ask Jeanette 7 Battle what her fear is. 8 Q. Well, how do you know that she 9 has that fear? 10 A. 'Cause every time someone knocks 11 on my door she jumps, but again, you would have 12 to ask her. 13 Q. And she's told you that she 14 jumping because of fear -- 15 A. You would have to ask her. 16 Q. So, you don't know for sure -- 17 A. You would have to ask Jeanette 18 Battle those questions. 19 Q. I suppose we can depose her. 20 A. Knock yourself out. 21 MR. PODRAZA: Okay. I think at 22 this time that's the extent of my 23 questioning subject to follow-up after 24 opposing counsel has some questions for</p>	<p style="text-align: right;">Page 239</p> <p>1 can't hear me, will you let me know? 2 A. Sure. 3 Q. Mr. Podraza concluded his 4 questioning by asking you about a couple of 5 letters, specifically what's been marked as 6 Battle's Exhibit No. 2. Do you have that in 7 front of you? 8 A. Yes. 9 Q. Did anyone from the government 10 have any involvement in the preparation of this 11 letter? 12 A. Not to my recollection, no. 13 Q. Did anyone from the government 14 ask you to write this letter? 15 A. No. 16 Q. I'm going to ask you about 17 Battle No. 3, which is the protest letter to 18 the International. 19 A. Yes. 20 Q. Did anyone from the government 21 have any involvement in preparation of this 22 letter? 23 A. No. 24 Q. Did anyone from the government</p>
<p style="text-align: right;">Page 238</p> <p>1 you. 2 MS. DeBRUICKER: May we go off 3 the record briefly? 4 THE VIDEOGRAPHER: The time is 5 now 5:36, we are going off the record. 6 MS. DeBRUICKER: Only because I 7 understand I need the microphone. 8 THE VIDEOGRAPHER: Time is now 9 5:38, back on the video record. 10 BY MS. DeBRUICKER: 11 Q. Good afternoon, Mr. Battle. 12 A. Good afternoon. 13 Q. I'm Lauren DeBruicker, I'm an 14 attorney for the Secretary of Labor in this 15 matter. I have some questions for you. I'm 16 going to do my best not to ask you questions 17 that Mr. Podraza already has. In the interest 18 of that, I may be skipping around a little bit, 19 so if you're at all unclear what my question 20 is, or what I'm asking you about, please let me 21 know, okay? 22 A. All right. 23 Q. Also, at the end of the day my 24 voice tends to drop a little bit, so if you</p>	<p style="text-align: right;">Page 240</p> <p>1 ask you to write this letter? 2 A. No. 3 Q. Mr. Battle, can you tell us why 4 you decided to run for office? 5 A. I'm very dissatisfied with 6 leadership's spending of money; I'm very 7 dissatisfied with members being afraid to go to 8 union meetings and feeling intimidated, and 9 afraid to ask questions; I feel that's our 10 Local, and we, as members do not work for John 11 Dougherty, it's quite the opposite, John works 12 for us, and nobody in this Local feels that 13 way. He just intimidates everyone. 14 Q. About when did you decide to run 15 for office? 16 A. I probably made my final 17 decision in the spring, I would say, of '20. 18 Q. Did you share that information 19 with anyone? 20 A. Very few people. 21 Q. Why did you share that 22 information with very few people? 23 A. So, through a mutual friend, I 24 found out some other people might be interested</p>

CHARLES BATTLE

<p style="text-align: right;">Page 241</p> <p>1 in running for other positions, and we just 2 started talking. 3 Q. Who is the mutual friend? 4 A. Phil Borthwick. 5 Q. And who are the people Mr. 6 Borthwick connected you with? 7 A. Timmy McConnell and Mike 8 Coppinger. 9 Q. Did you have any relationship 10 with Mr. McConnell prior to that? 11 A. No. 12 Q. We understood that Mr. McConnell 13 intended to run for IB board; is that your 14 understanding? 15 A. Yes. 16 Q. Does his decision to run for 17 office affect your decision to run for office? 18 A. No. 19 Q. Who else did Mr. Borthwick 20 connect you with? 21 A. Michael Coppinger. 22 Q. Did you have any relationship 23 with Mr. Coppinger prior to that? 24 A. I might have worked with him on</p>	<p style="text-align: right;">Page 243</p> <p>1 there. 2 Q. Was he alone on that visit or 3 was Mr. Kee with him? 4 A. He was by himself. 5 Q. How did that visit occur? Did 6 you arrange for him? Did you invite him over? 7 A. No. 8 Q. Did he call to tell you he was 9 coming? 10 A. No. 11 Q. Did he just knock at your door? 12 A. No. 13 Q. How did you know he was there? 14 A. I was in my garage working on my 15 cars, I received a phone call, he wanted to 16 meet to talk. I didn't want to meet, I was 17 tired from the day at work. I was in the 18 middle of something in my car, and he just kept 19 at it. I don't know for how long. I can't 20 remember, but I finally said, "Where are you 21 at? I'll meet you." And he informed me he was 22 standing in my driveway. 23 Q. So, he was calling you from your 24 driveway?</p>
<p style="text-align: right;">Page 242</p> <p>1 the job before, but I don't quite remember. 2 When I met him his face looked familiar, I 3 can't say for sure. 4 Q. Did you have an understanding 5 the Mr. Coppinger intended to seek office as 6 well? 7 A. Yes. 8 Q. What office was he going to 9 seek? 10 A. Executive board. 11 Q. Did his decision to run for 12 executive board impact your decision to run? 13 A. No. 14 Q. I'm going to direct your 15 attention back to Battle No. 11. Do you have 16 that in front of you? It is the report of Mr. 17 Bark's interview. 18 A. Yes. 19 Q. And it's my understanding that 20 Mr. Bark made several visits to your home; is 21 that right? 22 A. Two. 23 Q. About when was the first visit? 24 A. Maybe February, somewhere around</p>	<p style="text-align: right;">Page 244</p> <p>1 A. Yes. 2 Q. How did that make you feel? 3 A. Shook up. 4 Q. Why? 5 A. Not because, listen, Bob and I 6 have a history, but I know what he was there 7 for. 8 Q. What was he there for? 9 A. I feel like he was there on 10 John's behalf to find out what my issue was, 11 and that doesn't make me comfortable. 12 Q. Did you invite him into your 13 home? 14 A. No. 15 Q. What did you do? 16 A. I wanted him off my property, so 17 we got in his car and went and had a talk. 18 Q. Where did you go? 19 A. To Graeme's Park. 20 Q. You mentioned he -- I understand 21 he visited you on your job site. 22 A. Yes. 23 Q. And Mr. Podraza took you through 24 a line of questioning of him calling you Bitter</p>

CHARLES BATTLE

<p style="text-align: right;">Page 245</p> <p>1 Battle.</p> <p>2 A. Yeah.</p> <p>3 Q. Do you have a recollection of</p> <p>4 that?</p> <p>5 A. No.</p> <p>6 Q. When did he visit you on the job</p> <p>7 site?</p> <p>8 A. I'm not even sure. I know it</p> <p>9 was after the first visit, but I don't know</p> <p>10 what date, what day. I don't remember.</p> <p>11 Q. Tell me what you remember at</p> <p>12 that visit?</p> <p>13 A. Again, it was the same</p> <p>14 conversation we had when we went out</p> <p>15 previously.</p> <p>16 Q. What was that?</p> <p>17 A. He wanted to know what my issue</p> <p>18 was, and that, I just told him it's not one or</p> <p>19 two things, it's numerous.</p> <p>20 Q. Did you tell him anything about</p> <p>21 his visits to your home?</p> <p>22 A. Yes.</p> <p>23 Q. What did you say?</p> <p>24 A. I told him not to come to my</p>	<p style="text-align: right;">Page 247</p> <p>1 paragraph is, Bark said, "I've got a finger in</p> <p>2 my face. Charlie said, I told you not to come</p> <p>3 here;" do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall saying something</p> <p>6 like that to Mr. Bark?</p> <p>7 A. Yes.</p> <p>8 Q. So, it sounds to me like he was</p> <p>9 clear, you had already asked him not to come to</p> <p>10 your house before?</p> <p>11 A. Yes.</p> <p>12 MR. PODRAZA: Objection, calls</p> <p>13 for speculation, move to strike.</p> <p>14 BY MS. DeBRUICKER:</p> <p>15 Q. Going to direct your attention</p> <p>16 to Page No. 3 of the document, Battle No. 11,</p> <p>17 the second paragraph up from the bottom that</p> <p>18 begins, "When asked whether something</p> <p>19 happened," do you see that?</p> <p>20 A. Uh-huh, yes.</p> <p>21 Q. Okay. The second, the end of</p> <p>22 the second line of the paragraph reads, "When</p> <p>23 asked what he was trying to accomplish by going</p> <p>24 to Battle's home, Bark stated, I'm hearing</p>
<p style="text-align: right;">Page 246</p> <p>1 house unannounced or uninvited.</p> <p>2 Q. If you turn to Page No. 2 of</p> <p>3 Battle No. 11.</p> <p>4 A. I'm there. I'm sorry.</p> <p>5 Q. I'm going to direct your</p> <p>6 attention to the third full paragraph.</p> <p>7 A. Yes.</p> <p>8 Q. On the page that begins, "When</p> <p>9 Battle came to the door" --</p> <p>10 A. Uh-huh.</p> <p>11 Q. Says, "he," meaning you, "was</p> <p>12 very excited and very angry." Is that an</p> <p>13 accurate description of how you felt when he</p> <p>14 showed up?</p> <p>15 A. Yes, uh-huh.</p> <p>16 Q. And, can you tell, would this</p> <p>17 have been the second time he came to your</p> <p>18 house?</p> <p>19 A. Yes.</p> <p>20 Q. And just so I'm clear, that was</p> <p>21 a few days before the June 2020 nomination</p> <p>22 meeting, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And the last sentence of that</p>	<p style="text-align: right;">Page 248</p> <p>1 rumors on the job, Charlie's running for</p> <p>2 office, and I'm saying to myself, what's he so</p> <p>3 angry about;" do you see that?</p> <p>4 A. I do.</p> <p>5 Q. How do you think that Mr. Bark</p> <p>6 learned you were running for office?</p> <p>7 MR. PODRAZA: Objection, calls</p> <p>8 for speculation, move to strike.</p> <p>9 THE WITNESS: Am I answering</p> <p>10 that?</p> <p>11 MS. DeBRUICKER: (Ms. DeBruicker</p> <p>12 indicated).</p> <p>13 THE WITNESS: I have no idea.</p> <p>14 BY MS. DeBRUICKER:</p> <p>15 Q. Did you have any doubt that when</p> <p>16 you, when he showed up to your house a few days</p> <p>17 before the election, that he knew you were</p> <p>18 running?</p> <p>19 A. I can't say 'cause he really</p> <p>20 didn't get a word out, so I couldn't say.</p> <p>21 Q. Why do you think he came to your</p> <p>22 house on June 7th?</p> <p>23 A. In my mind, thinking about it,</p> <p>24 it's one of two things: It's either to</p>

CHARLES BATTLE

<p style="text-align: right;">Page 249</p> <p>1 intimidate, or to make some kind of a deal, 2 telling me, you know, if, maybe if I back off, 3 my son-in-law would be in the union. Other 4 than that, I can't for the life of me figure 5 out why he would show up at my house since 6 we're such great friends, and I asked him not 7 to, he still did it anyway. 8 Q. There has been some discussion 9 about the mention of Thanksgiving; do you 10 recall that? 11 A. Yes. 12 Q. Did asking Mr. Bark what he was 13 doing for Thanksgiving meaning he was welcome 14 to show up at your house uninvited? 15 A. The two nights before nomination 16 you're asking about? 17 Q. At any time. Was he welcome to 18 show up at your house uninvited? 19 A. No, but that's not the first 20 time he did that either or not even the second 21 time he did it. 22 Q. What other time did he do it? 23 A. I had a party, and I can't 24 remember what year, 98 party. He wasn't</p>	<p style="text-align: right;">Page 251</p> <p>1 to whether there were any charges of violence 2 against him? 3 A. Again, from what I hear, there 4 were, but I don't know that for sure, and I 5 don't want to speculate that they were. I just 6 I don't know. 7 Q. But you had heard those rumors 8 at the time? 9 A. Yeah. 10 Q. Getting back to your intention 11 to seek office at the June 2020 election, what 12 was the process you planned to go through to 13 get nominated? 14 A. So every other nomination since 15 I have been in, there is a general meeting, 16 and/or it's actually a nomination meeting I 17 think you call it. You stand up at the end of 18 the union meeting, meeting business, stand up 19 at the end, you get nominated, you get second, 20 and that's pretty much the process, as far as I 21 understood it. 22 Q. And when you say you "get 23 nominated," does that mean somebody else 24 nominates you?</p>
<p style="text-align: right;">Page 250</p> <p>1 invited. He showed up. I can't tell you what 2 year it was. It was quite some time ago 3 though. 4 Q. What was your reaction to that? 5 A. I really, at the time, didn't 6 mind 'cause I didn't have any, I'm not going to 7 say I didn't have any issues with the Local, 8 and how you perceive them to conduct business, 9 but I wasn't upset that he was there. 10 Q. The time Mr. Bark showed up at 11 your house on June 7th, 2020, were you aware of 12 any criminal charges pending against him? 13 A. I don't know. I knew he was 14 going through something, but I don't know if 15 he, I don't know when I know, so I can't say 16 for sure. 17 Q. What was the something he was 18 going through? 19 A. My understanding was, and again, 20 this is, I don't know for sure, just how rumors 21 and 98's kind of like 13th grade, but he had 22 issues with his girlfriend from what I 23 understand. 24 Q. Do you have any understanding as</p>	<p style="text-align: right;">Page 252</p> <p>1 A. Yes. 2 Q. So what was your plan? What was 3 your plan for getting nominated in June of 4 2020? 5 A. So that was a whole different 6 animal. 7 Q. How so? 8 A. For some reason and I guess 9 we're going to blame it on corona, we had to 10 show up at the hall and let them know our 11 intention of being nominated, two hours before 12 the start of the meeting. 13 Q. Do you have Battle No. 1? 14 A. No, I don't think. 15 MR. HAINES: Here, I got it. 16 THE WITNESS: Thank you. 17 MR. HAINES: Hand me those. 18 THE WITNESS: Yeah. 19 MR. HAINES: Copies are yours, 20 right? 21 THE WITNESS: Okay. I have it. 22 BY MS. DeBRUICKER: 23 Q. Don't want to retread other 24 ground, but this is the notice of the election</p>

CHARLES BATTLE

<p style="text-align: right;">Page 253</p> <p>1 that you received?</p> <p>2 A. Yes.</p> <p>3 Q. The bottom of the first</p> <p>4 paragraph of Battle No. 1, the last sentence</p> <p>5 reads, "The nomination of officers, and the</p> <p>6 nomination of the election board, if needed,</p> <p>7 will be the only order of business on June</p> <p>8 9th;" do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know what they meant by,</p> <p>11 "if needed?"</p> <p>12 A. I would say if nobody else was</p> <p>13 running for election board.</p> <p>14 Q. So it's your understanding you</p> <p>15 had to appear before the meeting to indicate</p> <p>16 you were running; is that correct?</p> <p>17 A. Yes.</p> <p>18 MR. PODRAZA: Objection to the</p> <p>19 form of the question, move to strike.</p> <p>20 BY MS. DeBRUICKER:</p> <p>21 Q. Is it your understanding you</p> <p>22 needed someone to nominate you?</p> <p>23 A. Yes.</p> <p>24 Q. Did you have a plan as to who</p>	<p style="text-align: right;">Page 255</p> <p>1 communicate that to you?</p> <p>2 A. By phone.</p> <p>3 Q. Phone call or text?</p> <p>4 A. I don't remember.</p> <p>5 Q. Do you know why Mr. Coppinger</p> <p>6 decided not to run?</p> <p>7 A. I don't remember what happened</p> <p>8 here. I don't remember why he decided to pull</p> <p>9 out. I don't know if it was a conversation. I</p> <p>10 can't speculate. I think I know why, but I</p> <p>11 just don't, never sure.</p> <p>12 Q. What is your understanding of</p> <p>13 why he decided not to run?</p> <p>14 A. I think it was a conversation</p> <p>15 with someone from the hall.</p> <p>16 MR. PODRAZA: Objection, move to</p> <p>17 strike, speculation.</p> <p>18 BY MS. DeBRUICKER:</p> <p>19 Q. When you learned that Mr.</p> <p>20 Coppinger had decided not to run, was it on the</p> <p>21 understanding that he would still nominate you?</p> <p>22 MR. PODRAZA: Objection, calls</p> <p>23 for speculation.</p> <p>24 THE WITNESS: No. I know that</p>
<p style="text-align: right;">Page 254</p> <p>1 would nominate you?</p> <p>2 A. Yes.</p> <p>3 Q. Who was that going to be?</p> <p>4 A. Michael Coppinger.</p> <p>5 Q. Did you have any communications</p> <p>6 with Mr. Coppinger in the days before the</p> <p>7 election about his intention to run?</p> <p>8 A. Yes.</p> <p>9 Q. At some point did Mr. Coppinger</p> <p>10 tell you he did not intend to run?</p> <p>11 A. No -- so do me a favor, ask that</p> <p>12 question again. Ask the last two questions,</p> <p>13 please.</p> <p>14 Q. This might not be the same two</p> <p>15 questions, but I'll give it another shot. At</p> <p>16 some point before the nomination meeting, did</p> <p>17 Mr. Coppinger inform you that he did not intend</p> <p>18 to run after all?</p> <p>19 A. Yes, he did.</p> <p>20 Q. How did he communicate that to</p> <p>21 you?</p> <p>22 A. I actually found that out</p> <p>23 through Tim McConnell.</p> <p>24 Q. How did Mr. McConnell</p>	<p style="text-align: right;">Page 256</p> <p>1 for sure.</p> <p>2 BY MS. DeBRUICKER:</p> <p>3 Q. How do you know that for sure?</p> <p>4 A. I remember the conversation, and</p> <p>5 I said to him, "I understand why you're out.</p> <p>6 You have a family, you have a mortgage, you</p> <p>7 need to work." I said, "Do me a favor," 'cause</p> <p>8 apparently Michael's word has, holds weight, in</p> <p>9 our Local, to my understanding, "if you're not</p> <p>10 going to run, just nominate me." He said,</p> <p>11 "Okay, brother, I'll do that."</p> <p>12 Q. And in what form was that</p> <p>13 communication?</p> <p>14 A. That was on the phone call.</p> <p>15 Q. So, I understand you went to the</p> <p>16 union hall on June 9th; is that correct?</p> <p>17 A. I did, yes.</p> <p>18 Q. Can you describe the atmosphere</p> <p>19 of the union hall that night?</p> <p>20 A. It was, it was intimidating. It</p> <p>21 was my first time running for office. I didn't</p> <p>22 know what to expect. It was a little</p> <p>23 intimidating.</p> <p>24 Q. How so?</p>

CHARLES BATTLE

<p style="text-align: right;">Page 257</p> <p>1 A. I think I was more, it's hard to 2 explain. Was I physically threatened by that 3 nature? No, I wasn't. I just felt it was an 4 intimidating atmosphere. 5 Q. Were there other people when you 6 got there? 7 A. Are we talking about when I went 8 in to sign the paperwork or -- 9 Q. So, let's start, let me ask you, 10 about what time arrived at the union hall on 11 June 19? 12 A. A little before 5:00. 13 Q. And why did you arrive at the 14 union hall at that time? 15 A. To fill out paperwork to let 16 them know my intent on being nominated for 17 office. 18 Q. And what was the atmosphere 19 outside the union hall? 20 A. At that point, nothing going on 21 outside. 22 Q. Were there any signs posted at 23 the union hall? 24 A. Yes.</p>	<p style="text-align: right;">Page 259</p> <p>1 A. Yes. 2 Q. What did those signs indicate to 3 you? 4 A. So, three people allowed in the 5 building. 6 Q. And who would those people be? 7 A. The candidate, nominating 8 person, and the person seconding candidate. 9 Q. What did they indicate to you? 10 A. It was kind of confusing. 11 Q. How so? 12 A. Well, do we all come in at the 13 same time? Do we know when do we come in? It 14 was just kind of vague to me. 15 Q. Did it indicate to you that you 16 needed someone to nominate you, and you needed 17 someone to second you? 18 A. Absolutely, yes. 19 Q. And I believe it reads at the 20 bottom, "Please see the door worker to be 21 granted access." 22 A. Uh-huh. 23 Q. Who was the door worker? 24 A. There was no one there.</p>
<p style="text-align: right;">Page 258</p> <p>1 Q. Where was it posted? 2 A. On the door, front door. 3 Q. I apologize in advance for how 4 slow -- 5 A. No, you're good. 6 MS. DeBRUICKER: I'm going to 7 have this marked as -- there is no No. 13 8 for clarification; is that right? 9 MR. PODRAZA: Correct. 10 MS. DeBRUICKER: So can we 11 marked this as Battle 13 (sic)? 12 --- 13 (Whereupon the document was 14 marked, for identification purposes, as 15 Battle's Exhibit No. 15.) 16 --- 17 BY MS. DeBRUICKER: 18 Q. Mr. Battle, are those, there's 19 two photographs that make up Exhibit Battle No. 20 15, are those the signs you saw on the night of 21 the election? 22 A. That's what it looks like, yes. 23 Q. Do you recall reading those 24 signs?</p>	<p style="text-align: right;">Page 260</p> <p>1 Q. So you arrived at the union 2 hall. What did you do then? 3 A. I entered the building, no one 4 was at the desk, the table that they had set 5 up, I guess for the paperwork. 6 Q. Where was that table? 7 A. In the lobby. 8 Q. So on the doors there? 9 A. Yes, yes. 10 Q. On Battle No. 15? So what did 11 you do then? 12 A. I don't know. I think I asked 13 someone what the process was. I can't remember 14 who it was, and I was told somebody would be 15 right out. 16 Q. And did someone come out? 17 A. Plenty of people came out. 18 Q. Who came out? 19 A. Officers, you know, Tara chupka 20 came out to put the paperwork, I believe 21 Michael Neal came out. 22 Q. Who is he? 23 A. The head of apprentice training. 24 Q. Why would he have come out?</p>

CHARLES BATTLE

<p style="text-align: right;">Page 261</p> <p>1 A. I have no idea. Kind of felt 2 like the shark for shark boy kind of 3 (phonetic). 4 Q. Why would Ms. Chupka have come 5 out? 6 A. I guess to present me with the 7 paperwork to be filled out. 8 Q. Do you recall anyone else who 9 came out at the time? 10 A. No, I remember it being at least 11 seven or eight people that just came out of 12 nowhere, kind of, but I can't remember everyone 13 that was there. 14 Q. At some point, were you given 15 the nomination form? 16 A. Yes. 17 Q. Did you ask for the form? 18 A. I don't recall that. I don't 19 think I did. 20 Q. Pretty sure everybody knew what 21 I was there for though. 22 MS. DeBRUICKER: I'm going to 23 ask that this be marked as Battle No. 16. 24 - - -</p>	<p style="text-align: right;">Page 263</p> <p>1 it was just, this is the information they ask 2 for. Something to that fact. 3 Q. Did anyone tell you, you didn't 4 need someone to nominate you? 5 A. No. 6 Q. Did anyone tell you, you could 7 nominate yourself? 8 A. No. 9 Q. Did anyone tell you that 10 submitting your indication that you were 11 willing to accept the nomination was sufficient 12 to be nominated? 13 A. No. 14 (Whereupon there was a brief 15 interruption.) 16 BY MS. DeBRUICKER: 17 Q. Once you completed the form, 18 what did you do? 19 A. I left the form there. I told 20 Tara when the person comes that's going to 21 nominate me, he will in to fill out the rest of 22 the sheet, went out and sat in my truck. 23 Q. Did you ask who else was 24 running?</p>
<p style="text-align: right;">Page 262</p> <p>1 (Whereupon the document was 2 marked, for identification purposes, as 3 Battle's Exhibit No. 16.) 4 - - - 5 BY MS. DeBRUICKER: 6 Q. Mr. Battle, take a look at what 7 was marked as Battle No. 16 and tell me if you 8 recognize that document? 9 A. I do. 10 Q. What is it? 11 A. It's the paper that Tara chupka 12 gave me. 13 Q. Did you exchange any words with 14 Ms. Chupka regarding the completion of this 15 form? 16 A. I did. 17 Q. What do you recall of that 18 conversation? 19 A. I asked her why I had to let her 20 know what office I was running for, and why she 21 needed the name of the person who was going to 22 nominate me. 23 Q. What was her response? 24 A. It's, it's, I think, I believe</p>	<p style="text-align: right;">Page 264</p> <p>1 A. I did. 2 Q. What was the answer? 3 A. So, there was a stack of papers 4 -- so, Tara came out from the back, she pulled 5 this paper out of the bottom of the stack, 6 flipped it over, put the other papers down, 7 face down. I would say, I don't know, maybe 8 20, 25 papers before I filled out what I wanted 9 to run for, I asked her if the other papers 10 were people that were intending on running for 11 office. She said, "yes," so I said, well, do 12 you mind if take a look at them, because, you 13 know, if a good buddy of mine is running for 14 president, I wouldn't want to run against him, 15 and take votes from him, which is, this isn't 16 standard, but that's what people do, if we're 17 in a regular meeting, and just say I wanted to 18 run for president, and my buddy was running for 19 president, then I would be like, you know what, 20 I'll run for vice president, 'cause I don't 21 want to take votes away from him, so that's why 22 I wanted to see the papers. Tara said I have 23 to go in the back and check, see if you can see 24 that, whatever the back was, she took every</p>

CHARLES BATTLE

<p style="text-align: right;">Page 265</p> <p>1 paper, except for this one, went in the back, 2 came out a few minutes later, however long it 3 was, and say, "I can't let you see who is 4 running for what." I got a little bent, but I 5 was like, okay, all right. So I filled out the 6 paper the way you said, here, and left it with 7 her. 8 Q. Did you give it to her? 9 A. I don't remember. I don't 10 remember if I left it there or I gave it to 11 her. 12 Q. What did you do next? 13 A. Went out to my truck. 14 Q. Did you have any communications 15 with Mr. McConnell the night of the nomination 16 meeting? 17 A. I don't remember. 18 Q. Do you recall whether Mr. 19 McConnell was at the nominations meeting? 20 A. I don't remember seeing him. At 21 that point I don't think I had met him yet. 22 Q. Did you have any communications 23 with Mr. Coppinger the night of the meeting? 24 A. I did not.</p>	<p style="text-align: right;">Page 267</p> <p>1 that you needed someone to nominate you in 2 order to be able to run? 3 A. Yes. 4 MR. PODRAZA: Objection to form, 5 move to strike. 6 BY MS. DeBRUICKER: 7 Q. Are you familiar with a Mr. 8 Kerr, K-e-r-r? 9 A. Yes. 10 Q. Was he there that night? 11 A. Yes. 12 Q. Were you with him? 13 A. Yes. 14 Q. I represent that Mr. Kerr 15 indicated to the Department of Labor that when 16 you heard Mr. Coppinger was out, that you 17 turned white? 18 MR. PODRAZA: Objection, move to 19 strike. Statement by counsel 20 inappropriate. 21 THE WITNESS: That's what he 22 said? 23 BY MS. DeBRUICKER: 24 Q. That's what he said.</p>
<p style="text-align: right;">Page 266</p> <p>1 Q. Did someone else you're aware of 2 have communications with Mr. Coppinger that 3 evening? 4 A. Yes. 5 Q. Who is that? 6 A. Phil Borthwick. 7 Q. What's your understanding of the 8 communication between Mr. Borthwick and Mr. 9 Coppinger? 10 A. So it was probably close to 11 seven o'clock. I remember Phil getting off the 12 phone and saying to me Cop's out. 13 Q. Were you with Mr. Borthwick at 14 that time? 15 A. Yes. 16 Q. What did that mean to you? 17 A. That he is not coming to 18 nominate me. 19 Q. What was your reaction to that? 20 A. I was a little disturbed. 21 Q. Why? 22 A. You say you're going to do 23 something, you do it. 24 Q. Were you under the understanding</p>	<p style="text-align: right;">Page 268</p> <p>1 MR. PODRAZA: Objection, again, 2 move to strike. 3 THE WITNESS: Yeah, he's going 4 to hear about that one. 5 BY MS. DeBRUICKER: 6 Q. Would that accurately describe 7 how you were feeling? 8 MR. PODRAZA: Objection. 9 MR. FRANK: Keep your voice up, 10 please. 11 BY MS. DeBRUICKER: 12 Q. Would you accurately describe 13 how you were feeling? 14 MR. PODRAZA: Same objection, 15 move to strike. 16 THE WITNESS: Am I answering? 17 MS. DeBRUICKER: (Ms. DeBruicker 18 indicated). 19 THE WITNESS: Okay. I would say 20 I had a range of emotions at that point, 21 you know, besides being scared and 22 nervous, I was frustrated, angry, upset, 23 you know, I was pretty much the whole 24 gamut of emotions.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 269</p> <p>1 BY MS. DeBRUICKER:</p> <p>2 Q. At some point did you get a call</p> <p>3 from David Kelly?</p> <p>4 A. Yes.</p> <p>5 Q. Who is Mr. Kelly?</p> <p>6 A. So David Kelly and I have a</p> <p>7 history of growing up in the same neighborhood,</p> <p>8 and his father coached me in little league</p> <p>9 ball, and his father sponsored me in getting me</p> <p>10 into the union.</p> <p>11 Q. Did you hear from Mr. Kelly the</p> <p>12 night of the nominations' meeting?</p> <p>13 A. Yes.</p> <p>14 Q. When did you hear from Mr. Kelly</p> <p>15 on the night of the nominations?</p> <p>16 A. After I filled out the</p> <p>17 paperwork, sitting in my truck in the air</p> <p>18 conditioning, I guess, maybe 10/15 minutes,</p> <p>19 sitting my truck.</p> <p>20 Q. Did Mr. Kelly call you?</p> <p>21 A. Yes.</p> <p>22 Q. What was the nature of your</p> <p>23 communication with Mr. Kelly?</p> <p>24 A. He wanted to know if I was</p>	<p style="text-align: right;">Page 271</p> <p>1 A. No.</p> <p>2 Q. Did anyone communicate to you at</p> <p>3 any point that they thought Mr. Bassiano was</p> <p>4 going to nominate you?</p> <p>5 A. Say that again, I'm sorry.</p> <p>6 Q. Did anyone communicate to you at</p> <p>7 any point that they thought Mr. Bassiano was</p> <p>8 going to nominate you that night?</p> <p>9 A. No.</p> <p>10 Q. When you learned that Mr.</p> <p>11 Coppinger could not come to nominate you, did</p> <p>12 you have someone else to nominate you?</p> <p>13 A. Did I have someone else lined up</p> <p>14 to nominate me, no, uh-uh.</p> <p>15 Q. Did anyone else express</p> <p>16 willingness to nominate you?</p> <p>17 A. No.</p> <p>18 Q. Did you ask anyone to nominate</p> <p>19 you -- anyone else to nominate you?</p> <p>20 A. No.</p> <p>21 Q. Why not?</p> <p>22 A. So, I had two other friends that</p> <p>23 were going to second me. I think at that point</p> <p>24 I kind of felt like, I saw, I felt like there</p>
<p style="text-align: right;">Page 270</p> <p>1 running for president, if I was really running</p> <p>2 for president, and my response is, "How the</p> <p>3 hell would you know that?"</p> <p>4 Q. Did he respond?</p> <p>5 A. He kind of, from what I</p> <p>6 remember, chuckled, but I never got how he</p> <p>7 found out.</p> <p>8 Q. Is it your assumption that he</p> <p>9 found out because you had submitted your form?</p> <p>10 MR. PODRAZA: Objection, calls</p> <p>11 for speculation, move to strike.</p> <p>12 THE WITNESS: Yes.</p> <p>13 MR. PODRAZA: Same objection,</p> <p>14 same motion.</p> <p>15 BY MS. DeBRUICKER:</p> <p>16 Q. Had you ever told Mr. Kelly that</p> <p>17 you intended to run?</p> <p>18 A. No.</p> <p>19 Q. Did you have any communications</p> <p>20 with a Dominic Bassiano that night?</p> <p>21 A. I think just a hello.</p> <p>22 Q. Did you have any communications</p> <p>23 with Mr. Bassiano about the nominations meeting</p> <p>24 at any point?</p>	<p style="text-align: right;">Page 272</p> <p>1 was a certain, certain actions being taken to</p> <p>2 keep this from happening, and I kind of didn't</p> <p>3 want to put anybody else in that position. I</p> <p>4 knew, you know, no one else would be</p> <p>5 comfortable doing it, so yeah, I didn't ask</p> <p>6 anyone else.</p> <p>7 Q. Why didn't you want to put</p> <p>8 anyone else in that position?</p> <p>9 A. You know, just fear that, you</p> <p>10 know, anybody who is going to stand with me is</p> <p>11 now going to pay some kind of price.</p> <p>12 Q. What kind of price would that</p> <p>13 be?</p> <p>14 A. Monetary, you know, lack of</p> <p>15 work, just giving, just basically being</p> <p>16 intimidated financially, and I wouldn't want to</p> <p>17 put anybody through that situation, so --</p> <p>18 Q. You ever know anyone else who</p> <p>19 tried to run for office in Local 98 to suffer</p> <p>20 negative consequences?</p> <p>21 A. Yes.</p> <p>22 Q. Who is that?</p> <p>23 A. Kenneth Rocks.</p> <p>24 Q. And what negative consequences</p>

CHARLES BATTLE

<p style="text-align: right;">Page 273</p> <p>1 do you understand that Mr. Rocks suffered?</p> <p>2 A. There is, you know, all kinds of</p> <p>3 rumors and innuendos, and the machine, you</p> <p>4 know, this is what they do, you go against the</p> <p>5 machine, you're a wife beater, you're a drug</p> <p>6 addict, you know, contractors get called, if</p> <p>7 they are hired, that sort of thing.</p> <p>8 Q. Did someone say Mr. Rocks was a</p> <p>9 wife beater?</p> <p>10 A. From what I understand, yes.</p> <p>11 Q. Did you hear that someone had</p> <p>12 said Mr. Rocks was a wife beater?</p> <p>13 A. I heard that someone had said</p> <p>14 it, yes.</p> <p>15 Q. Did you have an understanding</p> <p>16 where Mr. Rocks lost work after running for</p> <p>17 office?</p> <p>18 A. From my understanding, yes.</p> <p>19 Q. Were you aware that the</p> <p>20 International constitution, the constitution of</p> <p>21 the International, you understand what I'm</p> <p>22 referring to?</p> <p>23 A. Uh-huh, yes.</p> <p>24 Q. Did you know that the</p>	<p style="text-align: right;">Page 275</p> <p>1 A. So, that's another tricky thing</p> <p>2 with the wording and the letter that we got.</p> <p>3 When was I supposed to go? Was I supposed to</p> <p>4 go down there at seven o'clock? Was I supposed</p> <p>5 to down in the first wave? The second wave?</p> <p>6 How many people supposed to go? The whole</p> <p>7 night was very confusing.</p> <p>8 Q. Was there any communication to</p> <p>9 you as to when you were to come inside?</p> <p>10 A. No.</p> <p>11 Q. Where was the actual meeting</p> <p>12 held or to be held?</p> <p>13 A. 1719 Spring Garden.</p> <p>14 Q. And where in the building?</p> <p>15 A. I believe down in the hull,</p> <p>16 that's where meetings are usually held.</p> <p>17 MR. PODRAZA: Objection, move to</p> <p>18 strike, based on conjecture.</p> <p>19 BY MS. DeBRUICKER:</p> <p>20 Q. When you say down in the hull,</p> <p>21 does that mean going downstairs?</p> <p>22 A. Yes.</p> <p>23 Q. Did you go down to the hull that</p> <p>24 night?</p>
<p style="text-align: right;">Page 274</p> <p>1 International constitution says that to be</p> <p>2 nominated for office, you have to either be</p> <p>3 present or signify your willingness to run in</p> <p>4 writing?</p> <p>5 A. No, I wasn't aware of that.</p> <p>6 Q. Turn back to Battle No. 16, your</p> <p>7 nomination form.</p> <p>8 A. Uh-huh.</p> <p>9 Q. If you could have nominated</p> <p>10 yourself, would you understand that form to be</p> <p>11 sufficient to do that?</p> <p>12 A. That --</p> <p>13 MR. PODRAZA: I'm sorry.</p> <p>14 Objection, and I'm going to move to</p> <p>15 strike.</p> <p>16 THE WITNESS: In my eyes, this</p> <p>17 pretty much is a self-nomination.</p> <p>18 BY MS. DeBRUICKER:</p> <p>19 Q. Now, you submitted this form.</p> <p>20 You weren't intimidated about submitting this</p> <p>21 form, correct?</p> <p>22 A. No, uh-huh.</p> <p>23 Q. But you didn't attend the</p> <p>24 meeting, correct?</p>	<p style="text-align: right;">Page 276</p> <p>1 A. I did not.</p> <p>2 Q. Why not?</p> <p>3 A. After Michael wasn't going to</p> <p>4 nominate me, well, first of all, I didn't know</p> <p>5 when to go. I didn't know how this whole thing</p> <p>6 was playing out. I had no idea.</p> <p>7 Secondly is, when Michael said</p> <p>8 he wasn't going to nominate me, when I found</p> <p>9 this out, I wasn't going to put my other two</p> <p>10 friends that were there to second me through</p> <p>11 any other kind of, well, not that they suffered</p> <p>12 anything that night in particular, but I wasn't</p> <p>13 going to put their livelihood into jeopardy.</p> <p>14 Q. Did you ask anyone to go into</p> <p>15 the meeting for you?</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. I just wouldn't even have</p> <p>19 thought to have done that.</p> <p>20 Q. So your understanding is that</p> <p>21 there could have been negative consequences for</p> <p>22 someone nominating you?</p> <p>23 MR. PODRAZA: Objection,</p> <p>24 statement by counsel, move to strike.</p>

CHARLES BATTLE

<p style="text-align: right;">Page 277</p> <p>1 THE WITNESS: Is it possible?</p> <p>2 Yes, I feel it is.</p> <p>3 BY MS. DeBRUICKER:</p> <p>4 Q. Was it your understanding you</p> <p>5 had to be present at the meeting in order to</p> <p>6 run for office?</p> <p>7 A. Yes.</p> <p>8 Q. Why would the union have made</p> <p>9 such a requirement?</p> <p>10 MR. PODRAZA: Objection, calls</p> <p>11 for speculation, move to strike.</p> <p>12 THE WITNESS: I wouldn't know</p> <p>13 from the union's standpoint. I just know</p> <p>14 for mine, I have never seen anyone</p> <p>15 nominated who wasn't present, so I would</p> <p>16 just assume you had to be there.</p> <p>17 BY MS. DeBRUICKER:</p> <p>18 Q. Do you know who Rodney Walker</p> <p>19 is?</p> <p>20 A. Yes.</p> <p>21 Q. Who is Rodney Walker?</p> <p>22 A. Rodney Walker is an agent for</p> <p>23 Local 98.</p> <p>24 Q. We have information that Ms.</p>	<p style="text-align: right;">Page 279</p> <p>1 A. 'Cause nominators never finished</p> <p>2 the form.</p> <p>3 Q. Were you ever notified by Local</p> <p>4 98 that you were a candidate?</p> <p>5 A. No.</p> <p>6 Q. Did you ever hear that Local 98</p> <p>7 announced that all positions were unopposed</p> <p>8 that night?</p> <p>9 A. I didn't hear that myself. I</p> <p>10 heard secondhand, yes.</p> <p>11 Q. Was it your impression that the</p> <p>12 union was trying to find out who your</p> <p>13 nominators were?</p> <p>14 A. Absolutely.</p> <p>15 Q. What was that impression based</p> <p>16 on?</p> <p>17 A. Phone call from David Kelly,</p> <p>18 conversation with Dominic Bassiano.</p> <p>19 Q. Tell me more about your</p> <p>20 conversation with Mr. Bassiano?</p> <p>21 A. I really couldn't tell you for</p> <p>22 sure. I just don't remember it in detail.</p> <p>23 Q. Do you know who would have</p> <p>24 contacted Mr. Bassiano?</p>
<p style="text-align: right;">Page 278</p> <p>1 Chupka gave your nomination form to Mr. Walker.</p> <p>2 A. Yeah, I --</p> <p>3 MR. PODRAZA: Objection, move to</p> <p>4 strike statement by counsel.</p> <p>5 BY MS. DeBRUICKER:</p> <p>6 Q. Do you know why?</p> <p>7 A. No, I have no idea. I didn't</p> <p>8 know.</p> <p>9 Q. Is it your understanding that</p> <p>10 Mr. Walker had any role in the elections</p> <p>11 process?</p> <p>12 A. No.</p> <p>13 Q. Would it surprise you to learn</p> <p>14 that your statement was given to Mr. Walker?</p> <p>15 A. No.</p> <p>16 Q. Why not?</p> <p>17 A. It wouldn't surprise me if it</p> <p>18 was given to anyone in that Local that works</p> <p>19 for John.</p> <p>20 Q. As far as you know, did the</p> <p>21 union accept your nomination form and</p> <p>22 considered you a nominee?</p> <p>23 A. No.</p> <p>24 Q. Why do you think that is?</p>	<p style="text-align: right;">Page 280</p> <p>1 A. It was an agent.</p> <p>2 Q. Do you know who?</p> <p>3 A. I don't remember.</p> <p>4 Q. Why do you think the union was</p> <p>5 trying to find out who was nominating you?</p> <p>6 MR. PODRAZA: Objection, move to</p> <p>7 strike, calls for speculation.</p> <p>8 THE WITNESS: I think for</p> <p>9 intimidation factor.</p> <p>10 BY MS. DeBRUICKER:</p> <p>11 Q. Why did you think it would</p> <p>12 matter to the union who would nominate you?</p> <p>13 MR. PODRAZA: Same objection,</p> <p>14 move to strike.</p> <p>15 THE WITNESS: Just so they could</p> <p>16 get in his ear.</p> <p>17 BY MS. DeBRUICKER:</p> <p>18 Q. Get in whose ear?</p> <p>19 A. Whoever was going to nominate</p> <p>20 me, if they found out who it was, they would</p> <p>21 definitely want to have a conversation.</p> <p>22 Q. Is it your understanding they</p> <p>23 would try to dissuade anyone from nominating</p> <p>24 you?</p>

CHARLES BATTLE

<p style="text-align: right;">Page 281</p> <p>1 MR. PODRAZA: Objection, 2 statement by counsel, move to strike. 3 THE WITNESS: I would assume 4 that. 5 BY MS. DeBRUICKER: 6 Q. Why would that be your 7 assumption? 8 A. Just from prior elections, not 9 just from Rocks either, just from either, you 10 know, things that have happened in the history 11 of this local, trying to have elections, it's 12 almost comical. 13 Q. How so? 14 A. You know, my thought process is, 15 if you're doing the right thing by your 16 membership, you're doing the right things, 17 well, you should have no problem being 18 reelected, so have an open, fair, honest 19 election, and that just doesn't happen in 98. 20 Q. I'm going to ask that this be 21 marked as Battle No. 17. 22 - - - 23 (Whereupon the document was 24 marked, for identification purposes, as</p>	<p style="text-align: right;">Page 283</p> <p>1 A. Yes. 2 Q. Is that your picture of the 3 gentleman laying on the mat? 4 A. Yeah. 5 Q. And I know you can't see it 6 here, but in the video was the face of the 7 person jumping in the air that of Mr. 8 Dougherty? 9 A. Sure was. 10 Q. Do you recall how you came to 11 see this? 12 A. Somebody sent it to me. 13 Q. Do you know who was responsible 14 for this? 15 A. I've heard, but I can't say for 16 sure. 17 Q. What did you take this video to 18 imply? 19 A. That John knocked me the hell 20 out. 21 MR. PODRAZA: Counsel, could we 22 have a time frame on whatever this is? 23 BY MS. DeBRUICKER: 24 Q. Mr. Battle, do you recall when</p>
<p style="text-align: right;">Page 282</p> <p>1 Battle's Exhibit No. 17.) 2 BY MS. DeBRUICKER: 3 Q. Mr. Battle, I'll have you look 4 at what has been marked as Battle No. 17; do 5 you see that? 6 A. Yeah. 7 Q. Do you recognize that? 8 A. I do. 9 Q. What is it? 10 A. This is a, I think they call 11 them memes, I think, or it says a GIF or a GIF, 12 yeah. 13 Q. And what does it show? 14 A. This whole scene plays out is me 15 being knocked out, and the other guy is John 16 Dougherty kind of waving around at his groin, 17 slamming me to the mat. 18 Q. So this is obviously a still 19 picture. 20 A. Yes. 21 Q. Was this actually a video at 22 some point -- 23 A. Yes. 24 Q. -- or something in motion?</p>	<p style="text-align: right;">Page 284</p> <p>1 you recall seeing this? 2 A. It was a day or two after 3 nominations. 4 MS. DeBRUICKER: How is 5 everybody doing? Six thirty. Anybody 6 want a break or keep going? 7 THE WITNESS: I'm good. 8 MR. PODRAZA: How much more do 9 you have? 10 MS. DeBRUICKER: Hard to tell. 11 I don't think it's very long. 12 MR. PODRAZA: Okay. 13 MS. DeBRUICKER: I'll count on 14 someone to speak up if we need a break. 15 BY MS. DeBRUICKER: 16 Q. Mr. Battle, I'm going to ask you 17 to look back at Battle No. 3, which is your 18 protest letter to the international? 19 MR. HAINES: I did put this 20 away. 21 MS. DeBRUICKER: Keeping you on 22 your toes, Cliff. 23 MR. HAINES: Keep working. 24 BY MS. DeBRUICKER:</p>

CHARLES BATTLE

<p style="text-align: right;">Page 285</p> <p>1 Q. Mr. Battle, you've had some 2 questions about the preparation of this letter. 3 Did you sign this letter? 4 A. Yes. 5 Q. Did you adopt this as your 6 letter? 7 A. Yes. 8 Q. Do you stand behind this letter? 9 A. Absolutely. 10 Q. You have been asked to identify 11 who may have had involvement in this letter. 12 A. Uh-huh. 13 Q. And I understand no one from the 14 government was involved in this letter. 15 A. Correct. 16 Q. Are you willing to identify 17 anyone else who may have been involved in the 18 preparation of this letter? 19 A. No. 20 Q. Why not? 21 A. For fear of monetary, physical, 22 and mental retribution of my local. 23 Q. And when you saw monetary, does 24 that mean they might lose a job?</p>	<p style="text-align: right;">Page 287</p> <p>1 with the Department of Labor prior to August 2 18th, 2020? 3 A. Not for sure, not that I can 4 recall. 5 Q. Do you recall having any contact 6 with the Department of Justice prior to August 7 18th, 2020? 8 A. No, I never talked to them. 9 Q. Did anyone from the government 10 pressure you to contact the Department of Labor 11 on August 18th, 2020? 12 A. No. 13 Q. You made this contact of your 14 own free will? 15 A. Yes. 16 Q. I'm going to have you turn to 17 what's been marked as Battle No. 10. 18 A. Okay. 19 Q. And as we have established, 20 Battle No. 10 is a cover Memorandum from the 21 Department of Labor, dated October 13, 2020; is 22 that correct? 23 A. Yes. 24 Q. And then attached to that,</p>
<p style="text-align: right;">Page 286</p> <p>1 A. Yes. 2 Q. Any other monetary penalties 3 that the local could levy against someone? 4 A. Who knows, you know, with the 5 way the roles are, they bring someone up on 6 charges, they could fine someone, who knows. 7 Q. Did you speak to anyone from the 8 Department of Labor about this protest letter 9 before submitting it? 10 A. No. 11 Q. Did you speak with anyone from 12 the Department of Justice about your protest 13 letter before submitting it? 14 A. No. 15 Q. Do you stand by the contents of 16 this letter? 17 A. Hundred and fifty percent. 18 Q. Mr. Battle, I'm going to have 19 you look at what we have marked as Battle No. 20 7, the last time we were together. Do you 21 recall being asked about that document? 22 A. The last deposition, I do, 23 uh-huh. 24 Q. Do you recall having any contact</p>	<p style="text-align: right;">Page 288</p> <p>1 starting on Page No. 3 of that document is a 2 statement signed by you; is that correct? 3 A. Yes. 4 Q. Mr. Podraza asked you some 5 questions about the preparation of this 6 document. 7 A. Uh-huh. 8 Q. And correct me if I'm wrong, but 9 it's my understanding of your testimony that 10 you gave an interview to the Department of 11 Labor at some point in August of 2020; does 12 that sound correct? 13 A. Not positive about the date, but 14 yeah, uh-huh. 15 Q. At some point you spoke to the 16 Department of Labor and told them what happened 17 to you in June 2020? 18 A. Yes. 19 Q. And I understand that someone 20 prepared this typewritten document; is that 21 correct? 22 A. Yes. 23 Q. And that you did not prepare 24 this typewritten document; is that correct?</p>

CHARLES BATTLE

<p style="text-align: right;">Page 289</p> <p>1 A. Correct.</p> <p>2 Q. Was it your understanding that</p> <p>3 this document was prepared based on the</p> <p>4 conversation you had, had with the Department</p> <p>5 of Labor when you reported your issue?</p> <p>6 A. Yes.</p> <p>7 Q. Did you have chance to review</p> <p>8 this document?</p> <p>9 A. Yes.</p> <p>10 Q. Did you have a chance to make</p> <p>11 changes to this document?</p> <p>12 A. Yes.</p> <p>13 Q. Were you asked to make sure that</p> <p>14 everything in this document was correct?</p> <p>15 A. I was.</p> <p>16 Q. And did you in fact make some</p> <p>17 changes to this document?</p> <p>18 A. I did.</p> <p>19 Q. And did you initial those</p> <p>20 changes?</p> <p>21 A. I did.</p> <p>22 Q. Were you under any time pressure</p> <p>23 to review this document when you reviewed it?</p> <p>24 A. No, uh-uh.</p>	<p style="text-align: right;">Page 291</p> <p>1 A. Did I speak with him during,</p> <p>2 after my initial statement you're asking or --</p> <p>3 Q. So let me back up, I guess.</p> <p>4 A. Yes, back up. I don't</p> <p>5 understand.</p> <p>6 Q. I understand you submitted your</p> <p>7 complaint to the International which was Battle</p> <p>8 No. 3 in June of 2020; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And at some point, is it your</p> <p>11 understanding that the International</p> <p>12 investigated your complaint?</p> <p>13 A. Yes.</p> <p>14 Q. Did you speak with Mr. Kieffer</p> <p>15 in the course of that investigation?</p> <p>16 A. No.</p> <p>17 Q. Did you speak with a Mr. Welsh</p> <p>18 over the course of that investigation?</p> <p>19 A. No.</p> <p>20 Q. Did you give any interviews at</p> <p>21 all, to the International, over the course of</p> <p>22 the investigation?</p> <p>23 A. No.</p> <p>24 Q. Mr. Kieffer indicates that he</p>
<p style="text-align: right;">Page 290</p> <p>1 Q. Following your corrections that</p> <p>2 you made, was everything in the statement true</p> <p>3 and accurate to the best of your knowledge?</p> <p>4 A. To the best of my knowledge,</p> <p>5 yes.</p> <p>6 Q. Do you stand by this statement?</p> <p>7 A. Absolutely.</p> <p>8 Q. Were you pressured by the</p> <p>9 government into giving this statement?</p> <p>10 A. No.</p> <p>11 Q. Were you pressured by anyone</p> <p>12 else into giving this statement?</p> <p>13 A. No.</p> <p>14 Q. I'm going to have you take a</p> <p>15 look at what was marked as Battle No. 5 when</p> <p>16 you were last here.</p> <p>17 A. Okay.</p> <p>18 Q. Battle No. 5 is a July 28, 2020</p> <p>19 letter authored by Mr. Randy Kieffer; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did you speak with Mr. Kieffer</p> <p>23 during the course of the International's</p> <p>24 investigation of your complaint?</p>	<p style="text-align: right;">Page 292</p> <p>1 did speak with you.</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So, I want to be sure I'm</p> <p>4 clear on your testimony. Did you speak with</p> <p>5 Mr. Kieffer?</p> <p>6 A. I did for the initial, for my</p> <p>7 initial protest I spoke with him.</p> <p>8 Q. That's what I'm referring to.</p> <p>9 A. Yes, okay.</p> <p>10 Q. Did you meet with Mr. Kieffer in</p> <p>11 person?</p> <p>12 A. No.</p> <p>13 Q. Did you speak with Mr. Kieffer</p> <p>14 by phone?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recall how many times you</p> <p>17 spoke with Mr. Kieffer?</p> <p>18 A. I spoke with him, I believe, two</p> <p>19 or three times.</p> <p>20 Q. Mr. Podraza asked you some</p> <p>21 questions regarding Mr. Kieffer's letter, and</p> <p>22 I'm going to do my best not to overlap anything</p> <p>23 he has already asked you. I'm going to direct</p> <p>24 your attention to the second page of that</p>

CHARLES BATTLE

<p style="text-align: right;">Page 293</p> <p>1 letter?</p> <p>2 A. Uh-huh.</p> <p>3 Q. The third paragraph on that</p> <p>4 page?</p> <p>5 A. Yep.</p> <p>6 Q. The second sentence begins,</p> <p>7 "Brother Battle stated to me in our discussion</p> <p>8 that he intended to nominate himself for</p> <p>9 president;" do you see that?</p> <p>10 A. I see it.</p> <p>11 Q. Was that correct?</p> <p>12 A. No. If that was my intention,</p> <p>13 it would have been done.</p> <p>14 Q. To be clear, it was not your</p> <p>15 intention to nominate yourself?</p> <p>16 A. No.</p> <p>17 Q. Did you understand that you</p> <p>18 could nominate yourself?</p> <p>19 A. No, not at the time, I did not.</p> <p>20 Q. In the middle of the paragraph</p> <p>21 there is a line that begins, "He was relatively</p> <p>22 sure he could nominate himself, but not</p> <p>23 positive;" do you see that?</p> <p>24 A. I do.</p>	<p style="text-align: right;">Page 295</p> <p>1 A. I didn't even know you needed to</p> <p>2 be given admission to the meeting.</p> <p>3 Q. When you handed in the</p> <p>4 nomination form, did anyone tell you to come</p> <p>5 back at seven o'clock?</p> <p>6 A. No.</p> <p>7 Q. And if they were staggering the</p> <p>8 people coming into the building, did anyone</p> <p>9 tell you at what point you needed to come into</p> <p>10 the building?</p> <p>11 A. No, uh-uh.</p> <p>12 THE VIDEOGRAPHER: Counsel, I</p> <p>13 have about 10 minutes before I have to</p> <p>14 change SD card.</p> <p>15 MS. DeBRUICKER: Why don't we</p> <p>16 stop and do that, it will give me a</p> <p>17 chance to condense and streamline in the</p> <p>18 interest of everyone's time.</p> <p>19 THE VIDEOGRAPHER: The time now</p> <p>20 is 6:47, this ends Media Unit No. 2.</p> <p>21 (Whereupon there was a recess in</p> <p>22 the proceeding from 6:47 p.m. to 7:09</p> <p>23 p.m.)</p> <p>24 THE VIDEOGRAPHER: The time is</p>
<p style="text-align: right;">Page 294</p> <p>1 Q. Do you recall ever saying that</p> <p>2 to Mr. Kieffer?</p> <p>3 A. No. I could have, but I just</p> <p>4 don't remember saying that to him.</p> <p>5 Q. At the end of that paragraph</p> <p>6 there is a sentence that says, "Brother Battle</p> <p>7 left the union office with the nomination</p> <p>8 paperwork and sat in his vehicle, contemplating</p> <p>9 what to do, and he decided not to return with</p> <p>10 the paperwork;" do you see that?</p> <p>11 A. I do.</p> <p>12 Q. I didn't read the full sentence</p> <p>13 of it. It's your testimony that you did submit</p> <p>14 your nomination form, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the next paragraph, which is</p> <p>17 the fourth paragraph on the page, about the</p> <p>18 fourth line down reads, "If Brother Battle</p> <p>19 filled out the nomination form, he would have</p> <p>20 been given admission to the meeting," I'll stop</p> <p>21 there. You filled out the nomination form?</p> <p>22 A. I did.</p> <p>23 Q. Were you given admission to the</p> <p>24 meeting?</p>	<p style="text-align: right;">Page 296</p> <p>1 now 7:09, this begins Unit No. 3, back on</p> <p>2 the video record.</p> <p>3 BY MS. DeBRUICKER:</p> <p>4 Q. Mr. Battle, Mr. Podraza has</p> <p>5 mentioned a lawsuit that the union has filed</p> <p>6 against you, do you recall that line of</p> <p>7 questioning?</p> <p>8 A. Yes.</p> <p>9 Q. Has the union indicated they</p> <p>10 have other legal actions to bring against you?</p> <p>11 A. Not to my knowledge, no.</p> <p>12 Q. Have you heard anything to that</p> <p>13 effect from anyone?</p> <p>14 A. I have.</p> <p>15 Q. I don't want to know about your</p> <p>16 communications with counsel, but who have you</p> <p>17 heard that from, other than Mr. Haines?</p> <p>18 A. I'd rather not say.</p> <p>19 Q. Why would you rather not say?</p> <p>20 A. For fear of monetary, physical,</p> <p>21 mental retribution.</p> <p>22 Q. To the person who shared that</p> <p>23 information with you?</p> <p>24 A. Yes.</p>


CHARLES BATTLE

<p style="text-align: right;">Page 297</p> <p>1 Q. When Mr. Podraza asked you 2 whether you had lost work since filing your 3 complaint; do you recall that? 4 A. Yes. 5 Q. And as I recall, you said, no, 6 because you're a damn good electrician. 7 A. Yes. 8 Q. Any other reason why you think 9 you did not lose work? 10 A. No, uh-uh. 11 Q. Did Mr. McConnell lose work? 12 A. Not to my knowledge, no. 13 Q. Did you recently help Mr. 14 McConnell get a job? 15 A. About a year ago or so, yeah, 16 uh-huh. 17 Q. Has anyone from the union spoken 18 to you about this case, about this case, I 19 mean, about this action arising from your 20 complaint to the Department of Labor? 21 A. No. 22 Q. Mr. Podraza asked you about a 23 recent union meeting. I'm not going to ask you 24 about that. Have you had other communications</p>	<p style="text-align: right;">Page 299</p> <p>1 ring; is that correct? 2 A. Yes. 3 Q. All right. Who made this? 4 A. How would I know that? 5 Q. I'm asking, do you know? 6 A. No. 7 Q. Who authorized its making; do 8 you know? 9 A. No. 10 Q. And where was this posted; do 11 you know? 12 A. Where was it posted? 13 Q. Right. 14 A. No. 15 Q. Do you know if Mr. Dougherty has 16 ever seen this image as portrayed on Battle No. 17 17? 18 A. I heard he did. I heard he had 19 a pretty good chuckle out of it, as did I. 20 Q. Do you know any of the 21 circumstances of the creation as to what's been 22 parked here as Battle No. 17? 23 A. No, I do not. 24 Q. Now, you made some reference in</p>
<p style="text-align: right;">Page 298</p> <p>1 with Mr. Dougherty in the last week? 2 A. No. 3 MS. DeBRUICKER: I have no 4 further questions at this time. 5 BY MR. PODRAZA: 6 Q. All right. Mr. Battle, if you 7 put before you Battle No. 17. 8 THE VIDEOGRAPHER: Microphone. 9 MR. PODRAZA: I'm sorry. 10 MR. HAINES: The answer is no. 11 He doesn't have it here. 12 MR. PODRAZA: I think you gave 13 it back. I'm not -- just for your 14 edification. 15 MR. HAINES: That one. 16 MR. PODRAZA: Yes, that is the 17 one we're looking for. There it is. 18 BY MR. PODRAZA: 19 Q. All right. Let's begin. Before 20 you is what deposing counsel marked as Battle 21 No. 17; do you have that before you? 22 A. Yes. 23 Q. And that's a, looks like a 24 wrestling, two wrestlers and a referee in a</p>	<p style="text-align: right;">Page 300</p> <p>1 your examination about contractors punishing 2 union members, and you're concerned about that. 3 Do you remember that statement? 4 A. I never said contractors punish. 5 Q. No? Union going through 6 contractors to punish members; is that more 7 accurate? 8 A. Yes. 9 Q. Which contractors? 10 A. Well, I couldn't even tell you. 11 Q. Give me one instance where that 12 happened? 13 A. -- 14 Q. Where the union went to a 15 contractor in order to punish one of its 16 members? 17 A. Never happened to me. 18 Q. I'm asking you, just identify 19 one contractor that you know of. 20 A. Let me think about this for a 21 minute here. Yeah, I can't recall. 22 Q. You mentioned that, going back 23 to Battle No. 17, that someone told you that 24 Mr. Dougherty had seen it and got a chuckle out</p>

CHARLES BATTLE

<p style="text-align: right;">Page 301</p> <p>1 of it; is that your testimony?</p> <p>2 A. Yes.</p> <p>3 Q. Who is that?</p> <p>4 A. I don't remember.</p> <p>5 Q. About what time would you have</p> <p>6 had that conversation or contact with that</p> <p>7 person?</p> <p>8 A. Don't remember.</p> <p>9 Q. Counsel's voice dropped when she</p> <p>10 was referring to a Mr. Kerr; do you remember</p> <p>11 that questioning?</p> <p>12 A. Yes.</p> <p>13 Q. What was the statement that Mr.</p> <p>14 Kerr made?</p> <p>15 A. Something about --</p> <p>16 MS. DeBRUICKER: Objection.</p> <p>17 THE WITNESS: -- about I turned</p> <p>18 white, I guess, is that what you're</p> <p>19 referring to?</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. I didn't hear it, that's why I'm</p> <p>22 asking.</p> <p>23 A. Yes, something to that effect.</p> <p>24 Q. Do you know Mr. Kerr?</p>	<p style="text-align: right;">Page 303</p> <p>1 say that. The African American</p> <p>2 persuasion? How offensive.</p> <p>3 MR. PODRAZA: I don't even know</p> <p>4 if any of it is offensive anymore. I</p> <p>5 don't know how to refer to it.</p> <p>6 MR. HAINES: It's not a</p> <p>7 persuasion, counsel.</p> <p>8 BY MR. PODRAZA:</p> <p>9 Q. Were you bothered by the fact</p> <p>10 that minority --</p> <p>11 A. Counsel, I'm not going to</p> <p>12 dignify that question, come on.</p> <p>13 Q. As to the nomination form, do</p> <p>14 you have that before you?</p> <p>15 A. Yes, yes, sir.</p> <p>16 Q. On, before, before June 9 of</p> <p>17 2020, I take it you didn't ask anybody or pose</p> <p>18 any questions to anyone regarding the</p> <p>19 nomination form, correct?</p> <p>20 MS. DeBRUICKER: Objection to</p> <p>21 form.</p> <p>22 THE WITNESS: I wouldn't have</p> <p>23 seen it.</p> <p>24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 302</p> <p>1 A. Yes.</p> <p>2 Q. Do you consider yourself</p> <p>3 friendly?</p> <p>4 A. Yes.</p> <p>5 Q. Do you understand why Mr. Kerr</p> <p>6 would make such a statement?</p> <p>7 A. You're going to turn this into a</p> <p>8 race thing now?</p> <p>9 Q. I don't know. I'm asking you</p> <p>10 why would he make such a statement?</p> <p>11 A. Why isn't there a black attorney</p> <p>12 sitting here with you?</p> <p>13 Q. So, I take it, you don't know</p> <p>14 why Mr. Kerr, have an understanding why Mr.</p> <p>15 Kerr made such a statement --</p> <p>16 A. You tell me why there is not one</p> <p>17 black attorney sitting here with you?</p> <p>18 Q. Did that bother you that besides</p> <p>19 yourself, there was nobody of the African</p> <p>20 American persuasion seeking the nomination on</p> <p>21 June --</p> <p>22 MR. HAINES: Wait, wait --</p> <p>23 MS. DeBRUICKER: Objection.</p> <p>24 MR. HAINES: You don't want to</p>	<p style="text-align: right;">Page 304</p> <p>1 Q. That's what I'm saying. So, you</p> <p>2 didn't ask anybody about the form prior to June</p> <p>3 9th --</p> <p>4 A. I don't know about, I can't</p> <p>5 answer the question.</p> <p>6 MS. DeBRUICKER: Objection.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. And on June 9, 2020, I take it,</p> <p>9 similarly, you didn't ask anybody for any</p> <p>10 guidance regarding the form, correct?</p> <p>11 MS. DeBRUICKER: Objection</p> <p>12 mischaracterize his question (sic).</p> <p>13 THE WITNESS: I just don't even</p> <p>14 understand that question.</p> <p>15 BY MR. PODRAZA:</p> <p>16 Q. Sure. When you had the form or</p> <p>17 any time, did you ask anybody for assistance on</p> <p>18 how to either complete the form or any</p> <p>19 questions you had regarding the form?</p> <p>20 A. No. I think I can read, so,</p> <p>21 which is pretty self-explanatory I would</p> <p>22 imagine.</p> <p>23 Q. So, the answer would be no?</p> <p>24 A. Did I ask anyone to help me fill</p>

CHARLES BATTLE

<p style="text-align: right;">Page 305</p> <p>1 out the form, no. 2 Q. Did you ask anybody any 3 questions about the form whatsoever that night, 4 and how it is to be completed, or the process 5 about it? 6 A. No. 7 MS. DeBRUICKER: Objection to 8 form. 9 BY MR. PODRAZA: 10 Q. And am I correct that before the 11 seven o'clock nomination proceeding occurred, 12 you had already exited the premises? 13 A. No. 14 MS. DeBRUICKER: Objection to 15 form. 16 BY MR. PODRAZA: 17 Q. You were still on the premises 18 at the union hall? 19 A. To the best of my recollection, 20 I believe I was. 21 Q. Did you ask anybody why you were 22 there on the premises, the process on how the 23 seven o'clock nomination proceeding would be 24 conducted?</p>	<p style="text-align: right;">Page 307</p> <p>1 A. I don't know. 2 MR. PODRAZA: That's all the 3 questions I have at this time. Thank 4 you. 5 MS. DeBRUICKER: I have nothing 6 further. 7 MR. HAINES: Let's get out of 8 here. 9 THE VIDEOGRAPHER: The time is 10 now 7:21, this ends Media Unit No. 3 in 11 the video deposition of Charles Battle. 12 - - - 13 (Witness excused.) 14 - - - 15 (Deposition concluded at 7:21 p.m.) 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 306</p> <p>1 A. No. 2 Q. Did you ask anybody, like, what 3 groups would go in first? 4 A. No. 5 Q. What groups would go in later? 6 A. Uh-uh, no. 7 Q. Your question and answer with 8 opposing counsel seemed to go a lot more 9 fluidly than with me. Have you had any 10 interaction with opposing counsel between your 11 first day of deposition to, as you're sitting 12 here today? 13 A. No. 14 Q. Did you speak with anybody in 15 preparation, in preparing for today's 16 continuation of your testimony? 17 A. No. 18 Q. Looking at Battle No. 15, this 19 is the two photographs? 20 A. I got 13 here. 21 Q. Okay. Did you take either of 22 these photographs? 23 A. No, sir. 24 Q. Who did?</p>	<p style="text-align: right;">Page 308</p> <p>1 C E R T I F I C A T E 2 3 COMMONWEALTH OF PENNSYLVANIA: 4 COUNTY OF PHILADELPHIA: 5 6 I do hereby certify that I am a Notary 7 Public in good standing, that the aforesaid 8 testimony was taken before me, pursuant to 9 notice, at the time and place indicated; that 10 said deponent was previously sworn to tell the 11 truth, the whole truth, and nothing but the 12 truth; that the testimony of said deponent was 13 correctly recorded in machine shorthand by me 14 and thereafter transcribed under my supervision 15 with computer-aided transcription; that the 16 deposition is a true record of the testimony 17 given by the witness; and that I am neither of 18 counsel nor kin to any party in said action, 19 nor interested in the outcome thereof. 20 WITNESS my hand and official seal this 21 6th day of September, 2021. 22 23 24  25 Paulette Cox, Court Reporter 26 Notary Public</p>

Page 309

INSTRUCTIONS TO WITNESS

1

2

3 Please read your deposition over

4 carefully and make any necessary corrections.

5 You should state the reason in the appropriate

6 space on the errata sheet for any corrections

7 that are made.

8 After doing so, please sign the errata

9 sheet and date it.

10 You are signing same subject to the

11 changes you have noted on the errata sheet,

12 which will be attached to your deposition.

13 It is imperative that you return the

14 original errata sheet to the deposing attorney

15 within thirty (30) days of receipt of the

16 deposition transcript by you. If you fail to

17 do so, the deposition transcript may be deemed

18 to be accurate and may be used in court.

19

20

21

22

23

24

Page 311

ACKNOWLEDGMENT OF DEPONENT

1

2 I, _____, do hereby

3 certify that I have read the foregoing pages ____

4 to ____ and that the same is a correct

5 transcription of the answers given by me to the

6 questions therein propounded, except for the

7 corrections or changes in form or substance, if

8 any, noted in the attached Errata Sheet.

9

10 _____

11 DATE SIGNATURE

12

13

14 Subscribed and sworn to before

15 me this _____ day of _____,

16 2021.

17

18 My commission expires:

19 _____

20

21 _____

22 Notary Public

23

24

Page 310

1 -----

2 E R R A T A

3 -----

4 PAGE LINE CHANGE

5 -----

6 Reason for Change: _____

7 -----

8 Reason for Change: _____

9 -----

10 Reason for Change: _____

11 -----

12 Reason for Change: _____

13 -----

14 Reason for Change: _____

15 -----

16 Reason for Change: _____

17 -----

18 Reason for Change: _____

19 -----

20 Reason for Change: _____

21 -----

22 Reason for Change: _____

23 -----

24 Reason for Change: _____

Ex. K

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- - -
MARTIN J. WALSH, :
Secretary of Labor, :
United States :
Department of Labor, :
:
Plaintiff, : CIVIL ACTION NO.:
: 2:21-cv-00096
vs. :
:
LOCAL 98, :
INTERNATIONAL :
BROTHERHOOD OF :
ELECTRICAL WORKERS, :
:
Defendant. :

- - -
TUESDAY, AUGUST 10, 2021
- - -

Videotaped Deposition of TIMOTHY
MCCONNELL, taken at Lamb McErlane, PC, One South
Broad Street, Suite 1500, Philadelphia,
Pennsylvania, commencing at 3:41 p.m., before
Lauren Sweeney, a Court Reporter and Notary Public.

- - -
VERITEXT LEGAL SOLUTIONS
MID-ATLANTIC REGION
1801 Market Street - Suite 1800
Philadelphia, Pennsylvania 19103

<div>Page 2</div> <div>APPEARANCES:</div> <div>1 U.S. DEPARTMENT OF JUSTICE UNITED STATES ATTORNEY'S OFFICE 2 BY: LAUREN DEBRUICKER, ESQUIRE Eastern District of Pennsylvania 3 615 Chestnut Street Suite 1250 4 Philadelphia, Pennsylvania 19106-4476 215-861-8492 5 lauren.debruicker@usdoj.gov Representing the Plaintiff 6 7 LAMB MCERLANE, PC BY: JOSEPH R. PODRAZA, JR., ESQUIRE 8 WILLIAM TRASK, ESQUIRE One South Broad Street 9 Suite 1500 Philadelphia, Pennsylvania 19107 10 215-609-3148 jpodraza@lambmcerlane.com Representing the Defendant 11 12 13 14 --- 15 16 ALSO PRESENT: 17 JOHN "JACK" O'NEILL, ATTORNEY AND CHIEF OF STAFF IBEW 98 18 19 JOHN DOUGHERTY 20 --- 21 22 23 24</div>		<div>Page 4</div> <div>DEPOSITION SUPPORT INDEX</div> <div>1 DIRECTIONS TO WITNESS NOT TO ANSWER 2 Page Line 3 (None) 4 5 6 7 REQUEST FOR PRODUCTION OF DOCUMENTS 8 Page Line Description 9 38 3 Notice of election 10 163 19 Date/time at DOL 11 180 4 Phone records 12 STIPULATIONS 13 Page Line 14 (None) 15 16 QUESTIONS MARKED 17 Page Line 18 (None) 19 20 21 22 23 24</div>
<div>Page 3</div> <div>INDEX</div> <div>1 --- 2 TESTIMONY OF: TIMOTHY MCCONNELL, PAGE 3 By MR. PODRAZA. 7, 212, 220 4 By MS. DEBRUICKER. 191, 220 5 --- 6 EXHIBITS 7 --- 8 NUMBER DESCRIPTION PAGE 9 McConnell-1 Text messages 55 10 McConnell-2 Website postings 70 11 McConnell-3 Statement 84 12 McConnell-4 Investigation document 100 13 McConnell-5 DOL statement 130 14 McConnell-6 Work history 181 15 16 17 18 19 20 21 22 23 24</div>		<div>Page 5</div> <div>1 THE VIDEOGRAPHER: Good 2 afternoon. We are going on the record 3 at 3:41 p.m. on August 10th, 2021. 4 Please note that the microphones are 5 sensitive and may pick up whispering, 6 private conversations, and cellular 7 interference. Please turn off all 8 cell phones or place them away from 9 the microphones as they can interfere 10 with the deposition audio. 11 This is media unit one of the 12 video recorded deposition of Timothy 13 McConnell taken in the matter of 14 Martin J. Walsh versus Local 98, et 15 al., filed in the U.S. District Court 16 for the Eastern District of 17 Pennsylvania, Civil Action Number 18 221-cv-00096. 19 This deposition is being held 20 at the offices of Lamb McErlane, 21 located at One South Broad Street, 22 Philadelphia, Pennsylvania. 23 My name is Matt MacMurchy from 24 the firm Veritext, and I am the</div>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 6</p> <p>1 videographer. The court reporter is 2 Lauren Sweeney from the firm Veritext. 3 I'm not authorized to administer an 4 oath, I am not related to any party in 5 this action, nor am I financially 6 interested in the outcome. 7 Counsel will now please state 8 their appearances and affiliations for 9 the record. 10 MS. DEBRUICKER: Lauren 11 DeBruicker, Assistant United States 12 Attorney for the Secretary of Labor. 13 MR. PODRAZA: And Joe Podraza 14 on behalf of the Defendant, Local 98, 15 IBEW. 16 THE VIDEOGRAPHER: Is that all 17 counsel of record? 18 MR. PODRAZA: Correct. 19 THE VIDEOGRAPHER: Okay. The 20 time is now 3:42. Will the court 21 reporter please swear in the witness. 22 - - - 23 TIMOTHY MCCONNELL, after having 24 been first duly sworn, was examined</p>	<p style="text-align: right;">Page 8</p> <p>1 Very importantly, we have a 2 court reporter as well as a videographer, but 3 only one person can speak at a time. So when 4 I'm asking my question I'll just ask that you 5 would wait until I've completed the question 6 before you begin your answer, and I'll do my 7 best to restrain myself from interfering or 8 interrupting your response so we move onto the 9 next question. 10 I'm happy to rephrase any 11 question if you are having trouble 12 understanding it, and if you just tell me, 13 I'll do everything I can to make it more 14 understandable. This is not a marathon today, 15 so if you need to take a bathroom break, 16 stretch, or whatever, you just let us know, 17 and we'll be happy to accommodate whatever 18 needs you have. 19 Are you represented today? 20 A. No. 21 Q. All right. Is there any reason 22 why you would be unable to answer my questions 23 truthfully or follow the instructions I just 24 gave you?</p>
<p style="text-align: right;">Page 7</p> <p>1 and testified as follows: 2 - - - 3 BY MR. PODRAZA: 4 Q. All right. Good afternoon, 5 Mr. McConnell. I appreciate your taking the 6 time after work to come in for this 7 deposition. As you heard, my name is Joe 8 Podraza, and I'm representing Local 98 in 9 litigation with the Department of Labor. 10 A. Uh-hum. 11 Q. We've asked you to come today 12 for a deposition. 13 Have you ever been deposed 14 before? 15 A. No. 16 Q. Well, why don't we go over some 17 of the general rules and format that will 18 hopefully make it more comfortable for you. 19 This is a question-and-answer 20 format, and what means is that I'll ask you a 21 question to which you'll have to supply an 22 answer, as well as my opposing counsel may at 23 the right time ask you a question and you'll 24 have to answer it.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. No. 2 Q. Prior to today have you spoken 3 with anybody about your deposition? 4 A. Yes. 5 Q. And who did you speak with? 6 A. Lauren. 7 Q. That's my opposing counsel? 8 A. Uh-hum. 9 Q. And when was that? 10 A. Thursday or Friday. Friday. 11 Q. And how was that done? In 12 person, by telephone? 13 A. In person. 14 Q. In person. And where was that 15 meeting? 16 A. At her office. 17 Q. Is that down at 8th & Market? 18 A. Yeah. 19 Q. Okay. And when did the meeting 20 begin and approximately when did it end? 21 A. After work, 3:30 to 4:30. 22 Q. And what was discussed? 23 A. Just how this was going to go, 24 the deposition.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 10</p> <p>1 Q. There was no review of your 2 statements or -- 3 A. Review of the statement and 4 pretty much just a time line. 5 Q. All right. Tell me, what did 6 you discuss about the time line? 7 A. I guess, how it began and how, 8 you know, we got to this point. 9 Q. And what was the nature of the 10 discussion? What was said? 11 A. In reference to what part? 12 Q. Any part of it. Tell me what 13 you remember from the conversation. 14 A. I guess read over the report, 15 and then we went step by step on how it went. 16 Q. Meaning the report, you went 17 line by line through the -- well, you call it 18 the report -- it's your statement is what 19 you're saying? 20 A. Yes, my statement. So I went 21 through -- I read my statement and then just 22 explained to Lauren how it went. 23 Q. Was there any other document 24 that there was reference made to?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. I think the handwritten one. 2 Q. All right. And what was the 3 conversation related to that? 4 A. Nothing. I really just read 5 it; that's it. We didn't really talk much 6 about it. 7 Q. There was no explanation as to 8 why you were being shown it? 9 A. I think I asked to see it. 10 Q. And were you told at all that 11 that statement's been referred to in a 12 document that's been filed in the action 13 between the union and the Department of Labor? 14 A. Say that again. 15 Q. Sure. The statement by 16 Mr. Ryan, did anybody indicate to you that 17 that's been referred to in a document that's 18 been filed in this litigation? 19 A. I'm not sure. I don't 20 remember. I don't recall. 21 Q. And that was how many days ago? 22 Four days ago? 23 A. That was Friday. 24 Q. Okay. Anything else you can</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Oh, the international report, 2 the internationalist report. 3 Q. Yeah. It's Mr. Kieffer. Is 4 that the IVP report you're referring to? 5 A. I don't even know who wrote it. 6 Q. That's okay. I think in this 7 deposition we'll probably review that 8 ourselves, and maybe you can then say whether 9 this is the document you're referring to. 10 Was there any other document? 11 A. Not that I - I mean, not that I 12 remember. 13 Q. Did you review like Charlie 14 Battle's statement? 15 A. I didn't. 16 Q. Was there any discussions about 17 Charlie Battle's statement? 18 A. No. 19 Q. Did you review Jim Ryan's 20 statement? 21 A. I did. 22 Q. All right. Which statement did 23 you review, the typewritten one or the 24 handwritten one?</p>	<p style="text-align: right;">Page 13</p> <p>1 recall about discussions surrounding the 2 statement? 3 A. No, not really. 4 Q. Was there any other document 5 that was discussed with you and opposing 6 counsel? 7 A. Not really, no. 8 Q. Okay. 9 A. Not that I remember. 10 Q. Where did you grow up? 11 A. Northeast Philly. 12 Q. And where did you go to high 13 school? 14 A. Cardinal Dougherty. 15 Q. And did you have any subsequent 16 education past high school? 17 A. No. 18 Q. Now, I understand your 19 association with the union began in 2004? 20 A. Yes. 21 Q. All right. Now, was that 22 during the apprentice program or was that 23 after you had graduated the apprentice 24 program?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 14</p> <p>1 A. That's when I started.</p> <p>2 Q. All right. And normally the</p> <p>3 apprentice program is four years; is that</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And it took you</p> <p>7 nine and a half years to complete the program?</p> <p>8 A. Yes. I mean, I don't know</p> <p>9 offhand.</p> <p>10 Q. But more than four years?</p> <p>11 A. More than four years.</p> <p>12 Q. Significantly more than four</p> <p>13 years, right?</p> <p>14 A. Probably a couple years longer.</p> <p>15 Q. All right. Now, I'd like to</p> <p>16 ask you some questions between the period</p> <p>17 of 2004 and 2020, before the nomination</p> <p>18 proceeding that we're going to talk about in</p> <p>19 detail here today. Is that all right? So</p> <p>20 that's a 16-year period that you've been a</p> <p>21 member of the union.</p> <p>22 Am I correct that you did not</p> <p>23 attend union meetings during that period of</p> <p>24 time, that 16 years?</p>	<p style="text-align: right;">Page 16</p> <p>1 sporadic?</p> <p>2 A. Yes.</p> <p>3 Q. Now, during that 16-year period</p> <p>4 am I correct that you didn't hold a union</p> <p>5 position?</p> <p>6 A. No.</p> <p>7 Q. I'm wrong or I'm correct?</p> <p>8 A. No, no, no. You're correct.</p> <p>9 Q. All right. And am I also</p> <p>10 correct that during that 16-year period you</p> <p>11 didn't run for office for the union or with</p> <p>12 the union?</p> <p>13 A. No.</p> <p>14 Q. Am I also correct during the</p> <p>15 16-year period you didn't volunteer to be a</p> <p>16 union steward?</p> <p>17 A. Yeah.</p> <p>18 Q. You never did?</p> <p>19 A. Never did.</p> <p>20 Q. And I am also correct that</p> <p>21 during that 16-year period you did not attend</p> <p>22 executive board meetings?</p> <p>23 A. I didn't.</p> <p>24 Q. And am I also correct during</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No. I've been to meetings</p> <p>2 before.</p> <p>3 Q. All right. How many meetings</p> <p>4 would you say in that period of 16 years did</p> <p>5 you attend?</p> <p>6 A. I couldn't tell you a number.</p> <p>7 I mean, I used to go a lot in the beginning.</p> <p>8 The last probably eight years not so much.</p> <p>9 Q. And when you say not so much,</p> <p>10 would you go to one meeting a year perhaps?</p> <p>11 A. One or two.</p> <p>12 Q. And that's for the last eight</p> <p>13 years?</p> <p>14 A. Probably, outside of the last</p> <p>15 three.</p> <p>16 Q. And how often are the meetings</p> <p>17 held before the Corona Virus occurred?</p> <p>18 A. Once a month.</p> <p>19 Q. So in the last eight years you</p> <p>20 would attend maybe one or two meetings which</p> <p>21 were held each month during that period of</p> <p>22 time, over those years, right?</p> <p>23 A. Yes.</p> <p>24 Q. Would you say that that's</p>	<p style="text-align: right;">Page 17</p> <p>1 that 16-year period you didn't march in any of</p> <p>2 the St. Patrick Day parades with the union</p> <p>3 members?</p> <p>4 A. St. Patrick's Day Parade I did</p> <p>5 twice.</p> <p>6 Q. All right. Twice in 16 years.</p> <p>7 Which years?</p> <p>8 A. That was early on, same thing.</p> <p>9 Q. Early on, meaning 2004 or 2005,</p> <p>10 somewhere in there?</p> <p>11 A. Probably '06, '07, '08,</p> <p>12 somewhere around there.</p> <p>13 Q. Okay. So 2006 to 2008,</p> <p>14 somewhere in there.</p> <p>15 A. Early.</p> <p>16 Q. But for the last say eight</p> <p>17 years you haven't attended the St. Patrick's</p> <p>18 Day Parade and marched with the members?</p> <p>19 A. No.</p> <p>20 Q. You did not.</p> <p>21 A. No, I did not.</p> <p>22 Q. Am I also correct that during</p> <p>23 the 16-year period you did not attend the</p> <p>24 union's picnics?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 18</p> <p>1 A. I used to go every year.</p> <p>2 Q. When did you go and when did</p> <p>3 you stop?</p> <p>4 A. I probably stopped about -- I</p> <p>5 don't know the exact date, but five, six years</p> <p>6 ago.</p> <p>7 Q. Now, would it be fair to say</p> <p>8 that you prefer to spend your free time on</p> <p>9 nonunion-related activities?</p> <p>10 A. What do you mean?</p> <p>11 Q. Meaning outside of work. After</p> <p>12 you've completed your 40-plus-hour week of</p> <p>13 working, the free time then that you have</p> <p>14 outside of work, you would prefer to spend it</p> <p>15 on activities other than going to union events</p> <p>16 or activities and things of that nature; is</p> <p>17 that correct?</p> <p>18 A. I've been to a lot of Labor Day</p> <p>19 walks. I go to the Down Under every year. I</p> <p>20 actually go to a lot of different events for</p> <p>21 the union. But besides that, yeah, I've got</p> <p>22 four kids and soccer, so I don't really have</p> <p>23 as much time.</p> <p>24 Q. Right. So you have a lot of</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Considerably more time?</p> <p>2 A. Yes.</p> <p>3 Q. And would it also be fair to</p> <p>4 say that from 2009, going forward, during your</p> <p>5 free time you also work at your family store?</p> <p>6 A. What year was that?</p> <p>7 Q. 2009 going forward.</p> <p>8 A. That was -- I started that in</p> <p>9 2002.</p> <p>10 Q. So from 2002, to as we sit here</p> <p>11 today, you also spent some of your free time</p> <p>12 working at the family store?</p> <p>13 A. Yes.</p> <p>14 Q. And how often would you work at</p> <p>15 the family store?</p> <p>16 A. Free time.</p> <p>17 Q. A lot?</p> <p>18 A. I mean, you know -- I mean, not</p> <p>19 a lot but often.</p> <p>20 Q. Frequently, right?</p> <p>21 A. Not every day but a couple</p> <p>22 times a week.</p> <p>23 Q. More frequently than you would</p> <p>24 go to union activities in your free time you</p>
<p style="text-align: right;">Page 19</p> <p>1 free time outside of your responsibilities as</p> <p>2 a father for your children; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And you said you had four kids?</p> <p>5 A. Yes.</p> <p>6 Q. Add when did you get married?</p> <p>7 A. 2008.</p> <p>8 Q. Would it be fair to say then</p> <p>9 from 2008 going forward that your free time</p> <p>10 was devoted more towards family activities</p> <p>11 than union activities?</p> <p>12 A. Probably 2009, 2010.</p> <p>13 Q. Going forward, right?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. And I just violated my</p> <p>16 own rule. I spoke over you.</p> <p>17 A. No, no. That's --</p> <p>18 Q. Just so we have a clear record.</p> <p>19 So from 2009, to as we sit here</p> <p>20 today, as a father you spend more time doing</p> <p>21 family activities in your free time than union</p> <p>22 activities, correct?</p> <p>23 A. More time, yes, I spend more</p> <p>24 time.</p>	<p style="text-align: right;">Page 21</p> <p>1 would work at the family store?</p> <p>2 A. Probably.</p> <p>3 Q. And you got paid to work at the</p> <p>4 family store, correct?</p> <p>5 A. Yeah. I mean, I personally own</p> <p>6 it.</p> <p>7 Q. Right. But you got paid for</p> <p>8 your time that you would spend working at the</p> <p>9 family store, correct?</p> <p>10 A. Yeah.</p> <p>11 Q. And that would be in addition</p> <p>12 to whatever money you made working as an</p> <p>13 electrician during the week, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And what is the nature of the</p> <p>16 family store?</p> <p>17 A. It's a coin shop.</p> <p>18 Q. And even today, meaning today,</p> <p>19 this year, you continue to use your --</p> <p>20 predominantly most of your free time for</p> <p>21 family activities or working at the family</p> <p>22 store relative to union activities; is that</p> <p>23 correct?</p> <p>24 A. It just took up more of my time</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 22</p> <p>1 in the last year than that did, so now, yes.</p> <p>2 Q. All right. Well, if we took</p> <p>3 the time that you spent on union activities</p> <p>4 and your free time and we put that all on one</p> <p>5 side of the scale and then we took the time</p> <p>6 that you devoted of your free time for working</p> <p>7 in the family store and doing family</p> <p>8 activities, which one would tilt more?</p> <p>9 A. Family activities would</p> <p>10 probably tilt more.</p> <p>11 Q. Considerably?</p> <p>12 A. Probably, yes.</p> <p>13 Q. And would that be the case for</p> <p>14 say the last eight years since you became a</p> <p>15 father or got married I should say?</p> <p>16 A. Yes.</p> <p>17 Q. Now, I'd like to ask you a</p> <p>18 couple questions about an indictment that was</p> <p>19 filed in 2019.</p> <p>20 Did you know that an indictment</p> <p>21 was filed against certain union</p> <p>22 representatives in 2019?</p> <p>23 A. Yeah, I'm sure I did.</p> <p>24 Q. Well, you knew an indictment</p>	<p style="text-align: right;">Page 24</p> <p>1 Charlie?</p> <p>2 A. Hum. I don't even -- I</p> <p>3 couldn't even tell you.</p> <p>4 Q. Did Charlie seem convinced that</p> <p>5 the allegations in that indictment were true?</p> <p>6 A. Yeah.</p> <p>7 Q. All right. And did he convey</p> <p>8 that to you?</p> <p>9 A. Yeah. I mean --</p> <p>10 Q. Did you believe, just reading</p> <p>11 the indictment, that those charges were true?</p> <p>12 A. I wouldn't know either way. I</p> <p>13 would say that I, you know, would lean more</p> <p>14 towards probably.</p> <p>15 Q. Did you attend meetings at</p> <p>16 Charlie Battle's house with other members?</p> <p>17 A. Once.</p> <p>18 Q. And when was that?</p> <p>19 A. Not even sure.</p> <p>20 Q. Do you recall it being in the</p> <p>21 year of 2020?</p> <p>22 A. No. I think it would be this</p> <p>23 year.</p> <p>24 Q. And what was the nature of the</p>
<p style="text-align: right;">Page 23</p> <p>1 was filed by the United States government</p> <p>2 against certain representatives of the union,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Did you read the</p> <p>6 indictment?</p> <p>7 A. Whatever was in the paper or,</p> <p>8 you know, in the phone.</p> <p>9 Q. So did you at least go to a</p> <p>10 site that had a copy of the indictment and</p> <p>11 read through it?</p> <p>12 A. I might have browsed through</p> <p>13 it, yeah.</p> <p>14 Q. Did you speak with other</p> <p>15 individuals about the indictment?</p> <p>16 A. I'm sure I have.</p> <p>17 Q. All right. How about Charlie</p> <p>18 Battle?</p> <p>19 Did you speak to Charlie about</p> <p>20 the indictment?</p> <p>21 A. I've talked to Charlie about,</p> <p>22 yeah, some of the stuff in there.</p> <p>23 Q. Okay. And just tell me, what</p> <p>24 do you recall of the conversations with</p>	<p style="text-align: right;">Page 25</p> <p>1 meeting at his house? What were the</p> <p>2 discussions?</p> <p>3 A. I guess more or less like this</p> <p>4 kind of stuff like with the election.</p> <p>5 Q. You met to discuss the</p> <p>6 nomination proceeding on June 9, 2020?</p> <p>7 A. We didn't - I didn't even --</p> <p>8 probably a year -- a lot of time afterwards.</p> <p>9 I couldn't tell you exactly when the meeting</p> <p>10 was, but it was nowhere near that time.</p> <p>11 Q. But it was to discuss the</p> <p>12 June 9th, 2020 nomination proceeding?</p> <p>13 A. Yeah, like I guess moving</p> <p>14 forward with the election.</p> <p>15 Q. And who was in attendance?</p> <p>16 A. It was Charlie, Bill Borthwick,</p> <p>17 me, and Mike Coppinger.</p> <p>18 MR. PODRAZA: That's</p> <p>19 C-O-P-P-I-N-G-E-R.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. And besides Mr. Coppinger,</p> <p>22 Mr. Borthwick, yourself, and Mr. Battle gave</p> <p>23 statements to the Department of Labor in 2020</p> <p>24 regarding the elections, correct?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 26</p> <p>1 A. Yes.</p> <p>2 Q. Do you personally have any</p> <p>3 knowledge of the criminal conduct discussed in</p> <p>4 the indictment?</p> <p>5 A. I don't.</p> <p>6 Q. And do you have any direct</p> <p>7 knowledge of criminal conduct by any union</p> <p>8 representative who was named in the</p> <p>9 indictment?</p> <p>10 A. No.</p> <p>11 Q. Okay. Have you spoken with any</p> <p>12 government officials about criminal conduct in</p> <p>13 the indictment?</p> <p>14 A. Ask that -- what's that</p> <p>15 question again?</p> <p>16 Q. Sure. Have you spoken with any</p> <p>17 government officials about criminal conduct</p> <p>18 that's discussed in the indictment?</p> <p>19 A. Say it again, I'm sorry.</p> <p>20 Q. Sure. Have you spoken with any</p> <p>21 government officials about the criminal</p> <p>22 conduct discussed in the indictment?</p> <p>23 A. Once.</p> <p>24 Q. Who?</p>	<p style="text-align: right;">Page 28</p> <p>1 around there, yeah. I mean, it was the last</p> <p>2 day.</p> <p>3 Q. Did they call you because you</p> <p>4 had given your statement to the Department of</p> <p>5 Labor?</p> <p>6 A. I don't know.</p> <p>7 Q. Had you had any other contact</p> <p>8 from the FBI prior to that?</p> <p>9 A. No.</p> <p>10 Q. So did the call from the FBI --</p> <p>11 well, strike that.</p> <p>12 But the call from the FBI came</p> <p>13 after you gave your statement to the</p> <p>14 Department of Labor, correct?</p> <p>15 A. I don't remember. I would have</p> <p>16 to look.</p> <p>17 Q. Well, it had to be, because you</p> <p>18 weren't laid off until after you gave your</p> <p>19 statement to the Department of Labor, correct?</p> <p>20 A. It had to be, yes.</p> <p>21 Q. So we know then you gave a</p> <p>22 statement to the Department of Labor, and then</p> <p>23 you're laid off.</p> <p>24 A. Uh-hum.</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Well, I don't know -- I don't</p> <p>2 -- I don't know what the question is asking.</p> <p>3 Q. Well, you know there's an</p> <p>4 indictment, right?</p> <p>5 A. Uh-hum.</p> <p>6 Q. Did anybody from the government</p> <p>7 come to talk with you about criminal conduct</p> <p>8 or criminal-related conduct in the union?</p> <p>9 A. I got a phone call.</p> <p>10 Q. From whom?</p> <p>11 A. From the FBI.</p> <p>12 Q. When was this?</p> <p>13 A. When I was getting laid off at</p> <p>14 the W.</p> <p>15 Q. So this would have been in the</p> <p>16 October 2020 period?</p> <p>17 A. I don't remember exactly when</p> <p>18 it was.</p> <p>19 Q. Well, you gave your statement</p> <p>20 in early October 2020, and the layoff at the</p> <p>21 Hotel W occurred then in October of 2020.</p> <p>22 Does that help refresh your</p> <p>23 recollection?</p> <p>24 A. So it had to be somewhere</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Did you inform anybody at the</p> <p>2 Department of Labor or anybody with the</p> <p>3 government about your layoff?</p> <p>4 A. I don't remember.</p> <p>5 Q. Well, you know you had to</p> <p>6 contact somebody in order for the FBI to know</p> <p>7 that you were laid off, correct?</p> <p>8 MS. DEBRUICKER: Objection.</p> <p>9 THE WITNESS: I don't remember.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. Well, does it help refresh your</p> <p>12 recollection that when you were informed of</p> <p>13 your layoff that you contacted the Department</p> <p>14 of Labor representatives who took your</p> <p>15 statement?</p> <p>16 MS. DEBRUICKER: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: Yeah, I really</p> <p>19 don't remember.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. Well, how do you believe that</p> <p>22 the FBI became aware that you were laid off</p> <p>23 that they would contact you and call you to</p> <p>24 discuss it?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 30</p> <p>1 A. I don't know.</p> <p>2 Q. Well, did the FBI call you on</p> <p>3 your home phone or on your cell phone?</p> <p>4 A. On my cell phone.</p> <p>5 Q. And you gave your cell phone</p> <p>6 number to the Department of Labor</p> <p>7 representatives when you were speaking with</p> <p>8 them and they were taking a statement from</p> <p>9 you, correct?</p> <p>10 A. I don't recall, but, I mean,</p> <p>11 it's probably some of the information I gave.</p> <p>12 I don't remember.</p> <p>13 Q. Do you recall how else the FBI</p> <p>14 would have known your cell phone number and</p> <p>15 also known that you'd been laid off other than</p> <p>16 through the Department of Labor and its</p> <p>17 representatives?</p> <p>18 A. Not that I know of.</p> <p>19 Q. Were you surprised that the FBI</p> <p>20 just called you out of the blue on your cell</p> <p>21 phone?</p> <p>22 A. Yes.</p> <p>23 Q. What did you say to them?</p> <p>24 A. Again, it's a while ago.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I don't remember. I mean,</p> <p>2 mostly I don't know.</p> <p>3 Q. You didn't give them an</p> <p>4 explanation or your best guess as to why you</p> <p>5 believed you were laid off?</p> <p>6 A. I mean, the job was coming</p> <p>7 towards an end, and I don't know what the</p> <p>8 reason was.</p> <p>9 Q. You never suggested to the FBI</p> <p>10 that you were being retaliated against because</p> <p>11 you had spoken with the Department of Labor,</p> <p>12 right?</p> <p>13 A. I might have said that before.</p> <p>14 I don't know. I don't remember.</p> <p>15 Q. I mean, at that point do you</p> <p>16 have any reason to believe that Local 98 even</p> <p>17 knew that you were interviewed by the</p> <p>18 Department of Labor?</p> <p>19 A. Again, I don't know that data.</p> <p>20 Q. Now, did the call with the FBI</p> <p>21 -- well, strike that.</p> <p>22 Am I correct that the call with</p> <p>23 the FBI agent occurred after the search and</p> <p>24 seizure occurred in October of 2020?</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. So you can remember the facts</p> <p>2 surrounding the election on June 9, 2020 and</p> <p>3 before that, but you can't remember what the</p> <p>4 discussion was with the FBI in October of</p> <p>5 2020?</p> <p>6 MS. DEBRUICKER: Objection.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Is that true?</p> <p>9 A. Yeah, I don't remember.</p> <p>10 Q. Now, you'd agree with me you</p> <p>11 don't get a call from the FBI every day; is</p> <p>12 that correct?</p> <p>13 A. That's correct.</p> <p>14 Q. That's something to remember</p> <p>15 when it happens, right?</p> <p>16 A. Yeah. Well, I mean, I just</p> <p>17 don't remember what the conversation was.</p> <p>18 Q. Okay. Do you remember even</p> <p>19 generally what the conversation was with the</p> <p>20 FBI?</p> <p>21 A. Just that -- I mean, from what</p> <p>22 I recall, it was just about is there any</p> <p>23 reason I thought I was getting laid off.</p> <p>24 Q. And what did you say?</p>	<p style="text-align: right;">Page 33</p> <p>1 MS. DEBRUICKER: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. PODRAZA:</p> <p>5 Q. Well, if I told you that you</p> <p>6 give a statement in early October of 2020, and</p> <p>7 the next day search warrants were executed on</p> <p>8 the headquarters of Local 98, do you remember</p> <p>9 that?</p> <p>10 MS. DEBRUICKER: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I don't remember.</p> <p>13 BY MR. PODRAZA:</p> <p>14 Q. Well, you remember the search</p> <p>15 warrants --</p> <p>16 A. I do remember.</p> <p>17 Q. -- being executed, right?</p> <p>18 A. I do.</p> <p>19 Q. And you do remember that the</p> <p>20 search warrants were executed after your</p> <p>21 interview and your statement taken by the</p> <p>22 Department of Labor, correct?</p> <p>23 A. Yes, it was afterwards.</p> <p>24 Q. And it's one day afterwards, so</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 34</p> <p>1 it's something that you would remember in your 2 mind, right?</p> <p>3 MS. DEBRUICKER: Objection to 4 form.</p> <p>5 THE WITNESS: Yeah, I mean, if 6 that's the dates, that's the dates.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. All right. And after your 9 interview you understood that search warrants 10 were going to be issued on the union at some 11 point, didn't you?</p> <p>12 A. I didn't.</p> <p>13 Q. Nobody at DOL, a 14 representative, said anything to you about 15 what the use of your statement might be?</p> <p>16 A. They didn't.</p> <p>17 Q. Well, we'll get into that in a 18 little bit more detail later. I'd like to now 19 take you to 2020. So we've covered the 16 20 years. Now we're going to go into 2020.</p> <p>21 Sometime in 2020 you received 22 notice about the upcoming union elections, 23 right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 36</p> <p>1 desiring to run for a position up to 2020; is 2 that correct?</p> <p>3 A. I mean, I would say I don't 4 know -- I don't remember when it was, but it 5 was right around the time that they were 6 looking to get the -- somehow they were taking 7 the benefits away from wives that were working 8 or they had to go on their own medical.</p> <p>9 Q. Okay. And that's the 2020 10 period. Do you recall in your conversation 11 that we'll get into with Mr. Dougherty that 12 you mentioned that your wife was not on the 13 healthcare benefits or something to that 14 effect and that it was part of that 15 discussion? Do you remember that?</p> <p>16 MS. DEBRUICKER: Objection to 17 form.</p> <p>18 THE WITNESS: Reask that 19 question.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. Sure. That in the conversation 22 we're going to get into before the June 9th, 23 2020 election, you spoke with Mr. Dougherty, 24 and one of the things you spoke about and</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. And do you remember how you 2 received it? Was it sent by mail? Was it 3 sent by e-mail? How was it done?</p> <p>4 A. Wait a second. Go back to that 5 question before that.</p> <p>6 Q. Sure. You got a notification 7 that there's going to be an upcoming election 8 with the union in 2020, right?</p> <p>9 A. I personally don't remember 10 getting that.</p> <p>11 Q. So you don't even remember if 12 you did get something how you would have 13 gotten it?</p> <p>14 A. E-mail or mail. I don't know. 15 I mean, I just knew that they were coming.</p> <p>16 Q. Well, in the past when the 17 union would have elections, do you recall how 18 you received notification or notice about it?</p> <p>19 A. No, probably because I never 20 really paid any attention to it.</p> <p>21 Q. Why not?</p> <p>22 A. Really, I mean, I don't 23 remember ever an election.</p> <p>24 Q. And you don't ever recall</p>	<p style="text-align: right;">Page 37</p> <p>1 raised was the fact that -- your wife not 2 being allowed to have the full coverage under 3 that, the healthcare or something along those 4 lines.</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember that?</p> <p>7 A. Yes.</p> <p>8 MS. DEBRUICKER: Objection to 9 form.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. And was that the time that 12 you're talking about the healthcare concerns 13 that you just mentioned in 2020? Do you 14 recall?</p> <p>15 A. I don't -- I think it was 16 months prior.</p> <p>17 Q. Okay. But in 2020, because 18 we're talking, the election would be in June 19 of 2020, so that's six months in?</p> <p>20 A. I would have to look. I mean, 21 that probably -- I still have the letter that 22 was sent out.</p> <p>23 Q. All right. You're talking now 24 the notice of the upcoming election?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 38</p> <p>1 A. No. The notice of the wives 2 being taken off the benefits. 3 Q. All right. And we can look for 4 that too, and if you can, if you can find that 5 and supply that to both opposing counsel and 6 myself we'd appreciate that. Okay? 7 A. Yeah. 8 Q. Can you tell me what positions 9 were up for election in 2020? 10 A. I was going to -- I personally 11 was going to run for the executive board. 12 Q. All right. But I asked you 13 what positions. 14 Was that the only position that 15 was up for election in 2020? 16 A. No. I think they all were. 17 Q. What's all? 18 A. From business manager all the 19 way down to the examining board. 20 Q. Tell me what they are. 21 A. Business manager, president, 22 vice president, executive board, examining 23 board. 24 Q. And how many members are on the</p>	<p style="text-align: right;">Page 40</p> <p>1 in the union, correct? 2 MS. DEBRUICKER: Objection to 3 form. 4 THE WITNESS: It's a position. 5 I don't know. 6 BY MR. PODRAZA: 7 Q. Well, it's the executive board. 8 It's like the board of directors of a company, 9 wouldn't you agree? 10 A. It's I guess comparable. 11 Q. So it's a pretty high position, 12 wouldn't you say? 13 A. Yeah. 14 Q. Okay. Now, you're thinking 15 about running. You knew you would be likely 16 running against some incumbents and others 17 grouped with the incumbents, correct? 18 A. Yes. 19 Q. All right. And who did run in 20 June of 2020 for the executive board? 21 A. The same people that were there 22 before. 23 Q. And who were they? 24 A. It was Cresswell, Micky Gummel</p>
<p style="text-align: right;">Page 39</p> <p>1 union's executive board? 2 A. Five. 3 Q. It's actually seven since it's 4 including the president and the vice 5 president, correct? 6 A. Yes. 7 MS. DEBRUICKER: Objection to 8 form. 9 BY MR. PODRAZA: 10 Q. And what's the term for the 11 executive board members? 12 A. I don't know what you're 13 asking. I don't know. 14 Q. How long did the executive 15 board members serve before there's another 16 election? 17 A. Three years. 18 Q. Now -- so after 16 years of not 19 running, you say you were thinking in 2020 20 about running for a union office; is that 21 correct? 22 A. Yes. 23 Q. All right. And that office was 24 on the executive board of a very high position</p>	<p style="text-align: right;">Page 41</p> <p>1 -- Micky Gummel. 2 Q. Gumble? 3 A. Gummel. 4 Q. Gummel. 5 A. I think it was Jimmy Foy. I'm 6 trying to think of -- I can't remember 7 offhand. 8 Q. Okay. Now, did you think your 9 prospects were good to defeat one of the five 10 opponents who ran for the board? 11 A. I don't know. I mean, who 12 knows. 13 Q. Well, unlike you over the 14 years, your opponents, from Gormley, to 15 Cresswell, to Snyder, to Foy, and Gummel, had 16 held various positions with the union, right? 17 A. Yes. 18 Q. And, again, unlike you over the 19 years, all your opponents presumably had 20 gained some sort of experience from their 21 service with the union or even prior service 22 on the board, correct? 23 MS. DEBRUICKER: Objection to 24 form.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 42</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. Do you understand my question?</p> <p>3 A. No. Say it again.</p> <p>4 Q. Well, since these people, your</p> <p>5 opponents, had served in positions with the</p> <p>6 union, they gained experience about the union</p> <p>7 from those positions, and some of them, in</p> <p>8 fact, all but one, had served on the executive</p> <p>9 board and got that experience, correct?</p> <p>10 MS. DEBRUICKER: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I mean, you</p> <p>13 usually do if you're in a position.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Yeah. And you didn't have,</p> <p>16 either, experience of being an officer with</p> <p>17 the union, correct?</p> <p>18 A. No.</p> <p>19 Q. And no experience of having</p> <p>20 been on the executive board, correct?</p> <p>21 A. No.</p> <p>22 Q. And would you agree that your</p> <p>23 opponents, you know, from serving in positions</p> <p>24 with the union or running for elections also</p>	<p style="text-align: right;">Page 44</p> <p>1 MS. DEBRUICKER: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: Yeah.</p> <p>4 BY MR. PODRAZA:</p> <p>5 Q. And am I mistaken, didn't the</p> <p>6 members receive a \$10.50 increase in wages</p> <p>7 over that three-year period?</p> <p>8 A. If that was the contract, yeah.</p> <p>9 Q. All right. And there was no</p> <p>10 increase in healthcare cost over that period</p> <p>11 of time?</p> <p>12 A. I would have to look.</p> <p>13 Q. Okay. And work was pretty</p> <p>14 steady during that three-year period, correct?</p> <p>15 A. '17 to '20?</p> <p>16 Q. Yeah.</p> <p>17 A. Yeah.</p> <p>18 Q. Okay. Now, let me ask you</p> <p>19 something.</p> <p>20 Have you ever negotiated a</p> <p>21 contract on behalf of the union for wage</p> <p>22 increases?</p> <p>23 A. Me personally, no.</p> <p>24 Q. Had you ever negotiated or been</p>
<p style="text-align: right;">Page 43</p> <p>1 had some notoriety among the members of the</p> <p>2 union?</p> <p>3 A. Probably.</p> <p>4 Q. And over the last three terms</p> <p>5 of the board -- I'm talking now between the</p> <p>6 2017 period and the 2020 period, that</p> <p>7 three-year term -- isn't it a fact that the</p> <p>8 union wages had increased?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And isn't it a fact</p> <p>11 that the benefits were held in check? In</p> <p>12 other words there weren't substantial</p> <p>13 increases in contributions that the members</p> <p>14 would have to make towards their benefits?</p> <p>15 MS. DEBRUICKER: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: I mean, they were</p> <p>18 taking the wives off the benefits, so,</p> <p>19 I mean, you lose, in the way I look at</p> <p>20 it.</p> <p>21 BY MR. PODRAZA:</p> <p>22 Q. All right. So I understand the</p> <p>23 wife issue, but your deductible was still kept</p> <p>24 reasonably low, correct?</p>	<p style="text-align: right;">Page 45</p> <p>1 involved in a negotiation for an increase --</p> <p>2 or I'm sorry, did you ever negotiate or been</p> <p>3 involved in the negotiations for healthcare</p> <p>4 coverage in the union?</p> <p>5 A. I haven't.</p> <p>6 Q. And had you been involved in</p> <p>7 any of the negotiations with prospective</p> <p>8 projects for, you know, using union members?</p> <p>9 MS. DEBRUICKER: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. So am I correct that you had no</p> <p>14 role in the wage increases that occurred in</p> <p>15 2017 to 2020?</p> <p>16 A. No.</p> <p>17 Q. I'm not correct or I am</p> <p>18 correct?</p> <p>19 A. You are correct.</p> <p>20 Q. And am I correct that you also</p> <p>21 had no role in keeping healthcare costs in</p> <p>22 check between 2017 to 2020 for the union?</p> <p>23 A. Yeah.</p> <p>24 Q. All right. And you also had no</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 46</p> <p>1 role in maintaining steady work over that 2 three-year period for union members, correct? 3 A. Yes. 4 Q. Now, your opponents, in 5 considering your run, you expected them to run 6 as a group, correct? 7 MS. DEBRUICKER: Objection to 8 form. 9 THE WITNESS: Yeah, I was 10 wasn't sure who -- which ones were -- 11 BY MR. PODRAZA: 12 Q. Well, prior groups that had run 13 that had associated -- they called themselves 14 the Dougherty team. 15 Does that sound familiar? 16 A. Yes. 17 Q. Okay. And you expected then 18 that Brian Burrows, Tim Brown, Bob Gormley, 19 Bobby Cresswell, Jimmy Snyder, Jimmy Foy, and 20 Nick Gummel, G-U-M-M-E-L, would run as the 21 Dougherty team, correct? 22 A. I wasn't sure. The examining 23 board changed. I wasn't sure what positions 24 were going to change.</p>	<p style="text-align: right;">Page 48</p> <p>1 right? 2 A. Yes. 3 Q. All right. And in 2017, all 4 those other guys had run as the Dougherty 5 team, correct? 6 A. Yes. 7 Q. Okay. Now, would you agree 8 with me that running as a team had some 9 advantages in an election? 10 A. Yeah. 11 Q. All right. In, fact, they can 12 pool resources, right, money, and, you know, 13 put out literature and things of that nature 14 more easily as a team versus an individual 15 candidate, right? 16 MS. DEBRUICKER: Objection to 17 form. 18 THE WITNESS: Probably. 19 BY MR. PODRAZA: 20 Q. And you're not aware of any 21 criminal conduct by any of the opponents that 22 you would have been facing in 2020, correct? 23 A. No. 24 Q. You personally, while you were</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Well, as between the executive 2 board as it was comprised in 2017, all right, 3 and those who were then running in 2020, how 4 many candidates were different? 5 A. '17 to '20? 6 Q. Yeah. In other words, if I 7 took 2017, and put the executive board right 8 here with all the members, and then I take in 9 June of 2020, the guys who are going to run 10 for the executive board, how many different 11 individuals would I have in that comparison? 12 MS. DEBRUICKER: Objection to 13 form. 14 THE WITNESS: You would have 15 the same. 16 BY MR. PODRAZA: 17 Q. Well, actually, you would be 18 wrong because Mr. Cresswell was a new 19 candidate in 2020. 20 A. Yes. 21 Q. Okay. Does that help refresh 22 your recollection? 23 A. Yes. 24 Q. Everybody else was the same,</p>	<p style="text-align: right;">Page 49</p> <p>1 thinking of running, am I correct that you 2 didn't commit to run with a group or slate of 3 candidates? 4 A. Yeah, I didn't try to put a 5 team together, no. 6 Q. And am I also correct that you 7 personally didn't put money aside to finance a 8 campaign? 9 A. Ask that question again. 10 Q. Sure. While you were 11 considering running, did you take personal 12 money and put it aside and say, geez, if I do 13 it, I know I got this money here that I can 14 use to finance my campaign? You didn't do 15 that, did you? 16 A. No. I mean, I have money. I 17 mean, I -- yeah, I mean, I didn't put it 18 aside, no. 19 Q. Do you think you as an 20 individual would have more money than the 21 Dougherty team to run against? 22 A. Probably not. 23 Q. And while you were thinking 24 about running no one gave you any assurances</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 50</p> <p>1 or commitments to contribute to your campaign, 2 correct? 3 A. I really didn't tell many 4 people. 5 Q. Okay. You didn't tell them, so 6 you didn't get anybody to say like, hey, Tim, 7 if you run, you got my financial support, I'll 8 give you X numbers of dollars, correct? 9 MS. DEBRUICKER: Objection to 10 form. 11 THE WITNESS: No. 12 BY MR. PODRAZA: 13 Q. And what you just said there, 14 as I understand it, there was a very, very few 15 number of people who even knew that you were 16 considering or thinking of running, correct? 17 MS. DEBRUICKER: Objection to 18 form. 19 THE WITNESS: Yeah. I mean, 20 there wasn't many people that knew. 21 BY MR. PODRAZA: 22 Q. Okay. So do you know what an 23 exploratory campaign is? 24 A. No.</p>	<p style="text-align: right;">Page 52</p> <p>1 MS. DEBRUICKER: Objection to 2 form. 3 THE WITNESS: No. 4 BY MR. PODRAZA: 5 Q. Now, in fact, if I understand 6 this, it was not until June 8, 2020, the day 7 before the union nomination proceeding, that 8 you even notified the union that you were 9 thinking of running, correct? 10 A. Yes. 11 Q. I believe that in a text to a 12 Mr. Lynch -- and we'll get into the full 13 details of that in a second -- you said the 14 reason you were considering to run was because 15 you, quote, wanted a different face, end 16 quote. 17 Do you recall writing that? 18 MS. DEBRUICKER: Objection to 19 form. 20 THE WITNESS: I remember 21 texting, but I don't remember what was 22 written exactly. 23 BY MR. PODRAZA: 24 Q. Okay. Well, we'll cover this</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. An exploratory campaign is when 2 a person thinking about running for office 3 puts out feelers to see, you know, what are 4 their prospects of possibly winning, losing, 5 or how they think they're going to do before 6 they ultimately say, hey, I'm in and I'm going 7 to run. All right? 8 You didn't do anything along 9 those lines, did you? 10 MS. DEBRUICKER: Objection to 11 the preamble and the form. 12 THE WITNESS: No. 13 BY MR. PODRAZA: 14 Q. And you can take my definition 15 of it, and if I'm incorrect exactly -- just 16 use my definition. 17 You didn't make any efforts to 18 find out how receptive the other members would 19 be to you running for a position, correct? 20 A. Yes. 21 Q. So you weren't out actively 22 talking or communicating with your fellow 23 union members to get their support before 24 deciding whether to run for office, correct?</p>	<p style="text-align: right;">Page 53</p> <p>1 then when we have the chance to have the text 2 before you. 3 But just from our discussion 4 here, it just doesn't sound like you felt you 5 would actually win if you ran; is that 6 correct? 7 A. That's not true. 8 Q. Not true. I mean, did you 9 really believe the membership would vote for 10 you to be on the union's highest board over 11 your opposition when you never sought or let 12 alone served in a union position, you had 13 spotty attendance at best at union meetings, 14 never attended any executive board meetings, 15 had no involvement or limited involvement in 16 union sponsored events, and limited 17 involvement in union sponsored activities, 18 spent most of your free time on family 19 activities or working at the family store for 20 more pay, rather than union events or 21 activities, had no committed campaign money, 22 and your platform was according to a text, 23 quote, I'm a different face, end quote? Did 24 you really think you were going to win under</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 54</p> <p>1 those circumstances?</p> <p>2 MS. DEBRUICKER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: I've been to</p> <p>5 a lot of union functions, so that</p> <p>6 statement isn't true. I said I've</p> <p>7 been to a lot of union functions</p> <p>8 through the years, and, you know, I</p> <p>9 just haven't been to union meetings.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. Okay. Well, your earlier</p> <p>12 testimony was, at least as I understood it,</p> <p>13 over the last eight years your involvement in</p> <p>14 union activities or events was less than your</p> <p>15 activities for family matters, as well as</p> <p>16 working at the store, correct?</p> <p>17 A. It was less.</p> <p>18 Q. All right. So, again, using my</p> <p>19 statement, with all of those characteristics</p> <p>20 you really thought you were going to win?</p> <p>21 A. Yeah.</p> <p>22 Q. Let's talk now about the text</p> <p>23 that you sent. We're going to mark this as</p> <p>24 McConnell-1. What's the easiest way of doing</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yes.</p> <p>2 Q. How well did you know him</p> <p>3 personally?</p> <p>4 A. Pretty well.</p> <p>5 Q. All right. Describe to me --</p> <p>6 well, what I mean, pretty well, did you go to</p> <p>7 social events with him? Do you participate in</p> <p>8 family events with him? Let's start there.</p> <p>9 A. I've been to social events. I</p> <p>10 mean, family events. Yeah, I mean, yes.</p> <p>11 Q. All right. So you felt</p> <p>12 comfortable talking with him and being honest</p> <p>13 with him?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And it appears that on</p> <p>16 June 8th, 2020, your text was sent around</p> <p>17 5:59 p.m.</p> <p>18 Do see that there, sir?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And the words, those are</p> <p>21 your words that you typed; is that correct?</p> <p>22 A. Yeah.</p> <p>23 Q. Now, we can also agree that the</p> <p>24 nomination proceeding was the next day,</p>
<p style="text-align: right;">Page 55</p> <p>1 this? Mr. McConnell, could I ask you if you</p> <p>2 could pass that to the court reporter, please.</p> <p>3 - - -</p> <p>4 (Exhibit McConnell-1 was marked</p> <p>5 for identification.)</p> <p>6 - - -</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Okay. Mr. McConnell, we have</p> <p>9 what we've marked here as McConnell-1.</p> <p>10 And would you agree with me</p> <p>11 that this is a copy of texts you sent on</p> <p>12 June 8, 2020?</p> <p>13 A. Uh-hum.</p> <p>14 Q. Okay. I'm sorry, you have to</p> <p>15 say yes or no.</p> <p>16 A. Yes.</p> <p>17 Q. All right. And these texts</p> <p>18 were sent to a Mr. Lynch; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. All right. And who is</p> <p>21 Mr. Lynch?</p> <p>22 A. He's the safety director for</p> <p>23 Local 98.</p> <p>24 Q. Did you know him personally?</p>	<p style="text-align: right;">Page 57</p> <p>1 June 9th, 2020; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Now, what I'd like to do is</p> <p>4 just review what you've written here.</p> <p>5 You say, "yo, I am thinking</p> <p>6 about running for e-board."</p> <p>7 That's executive board; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And then you say,</p> <p>11 "I'm not on a team."</p> <p>12 What did you mean by that?</p> <p>13 A. Like just running</p> <p>14 independently.</p> <p>15 Q. And then you continue on and</p> <p>16 you say, "I had nothing to do with the</p> <p>17 website" -- strike that. "I had nothing to do</p> <p>18 with the website. I swear on my kids."</p> <p>19 What did you mean by that?</p> <p>20 A. He texted me earlier that my</p> <p>21 name came up on a website, that somebody sent</p> <p>22 out a text message and my name came up on it.</p> <p>23 Q. Well, what website are we</p> <p>24 making reference to? Is this Disney or what</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 58</p> <p>1 website in particular are we talking about?</p> <p>2 A. There was a website, I don't</p> <p>3 remember when or what. It was called Local</p> <p>4 98. It was something -- I don't remember what</p> <p>5 it was called.</p> <p>6 Q. It's called "The Truth About</p> <p>7 Your Local"?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And you say I had</p> <p>10 nothing to do with the website, I swear on my</p> <p>11 kids.</p> <p>12 Is that the website where</p> <p>13 comments were being posted anonymously by</p> <p>14 people?</p> <p>15 A. Yes.</p> <p>16 Q. And would you agree with me</p> <p>17 that some of the comments were crude?</p> <p>18 A. I would.</p> <p>19 Q. All right. And some of those</p> <p>20 crude comments were directed at Mr. Dougherty,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. And directed against his</p> <p>24 family, correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. Then you say at the very end of</p> <p>3 your text, "if anyone wants to call me, I'm</p> <p>4 free to talk."</p> <p>5 Did I read that accurately?</p> <p>6 A. Yeah.</p> <p>7 Q. And you meant that, didn't you?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And, in fact, you were</p> <p>10 taken up on that offer, weren't you?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. As I understand it, you</p> <p>13 received a call after the text where you spoke</p> <p>14 with Mr. Dougherty; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Now, I believe somewhere you</p> <p>17 said that the call with Mr. Dougherty was</p> <p>18 fairly long, maybe 45 minutes; is that</p> <p>19 correct?</p> <p>20 A. I mean, it was long. I don't</p> <p>21 know exactly how long.</p> <p>22 Q. Okay. But I think somewhere</p> <p>23 it's attributed 45 minutes. But it was more</p> <p>24 than just a couple minute of just passing,</p>
<p style="text-align: right;">Page 59</p> <p>1 A. Yes.</p> <p>2 Q. And directed against other</p> <p>3 members of the union, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And other what we would call</p> <p>6 representatives or officers of the union; is</p> <p>7 that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you didn't want to be</p> <p>10 associated with that website, did you?</p> <p>11 A. No.</p> <p>12 Q. And you later learned that that</p> <p>13 website was created and paid for by Charlie</p> <p>14 Battle, correct?</p> <p>15 A. I didn't.</p> <p>16 Q. I'm sorry?</p> <p>17 A. No, I didn't. I don't know</p> <p>18 that.</p> <p>19 Q. As you're here today you don't</p> <p>20 know that the website was created, paid for,</p> <p>21 and administered by Charlie Battle?</p> <p>22 MS. DEBRUICKER: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: No.</p>	<p style="text-align: right;">Page 61</p> <p>1 correct? It was a nice -- or there was a long</p> <p>2 discussion with Mr. Dougherty; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Now, during that</p> <p>6 call didn't Mr. Dougherty question your</p> <p>7 running for the executive board because you</p> <p>8 had not served in any position with the union</p> <p>9 during the 16 years of your membership?</p> <p>10 A. He might have, yeah, made</p> <p>11 reference to union meetings. Yeah, I mean, I</p> <p>12 don't -- I don't remember that part. Say it</p> <p>13 again. I'm sorry.</p> <p>14 Q. Sure. Didn't Mr. Dougherty</p> <p>15 question your running for the executive board</p> <p>16 because you had not served in any position</p> <p>17 with the union during the 16 years of your</p> <p>18 membership?</p> <p>19 A. That was part of it I think.</p> <p>20 Q. All right. And didn't</p> <p>21 Mr. Dougherty suggest during that call an</p> <p>22 effective board requires members who are</p> <p>23 active in union activities?</p> <p>24 A. I remember, yeah, stuff like</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 62</p> <p>1 why fix something that ain't broken and stuff 2 like that. I don't remember exactly what you 3 just said. 4 Q. All right. Well, we'll get 5 into some of that, but if you could answer my 6 question now because these are specific 7 questions. 8 Do you recall Mr. Dougherty 9 suggesting that an effective board requires 10 members who are active in union activities? 11 A. I guess. I don't really 12 remember that part. 13 Q. Well, do you remember 14 Mr. Dougherty suggesting that the experience 15 he believes needed to serve effectively on the 16 board could only be gained by and through 17 service with the union? 18 A. Yes. 19 Q. And do you also remember 20 Mr. Dougherty saying, you know, words to the 21 effect that a board which is not effective 22 during its three-year term could hurt the 23 union and its members? 24 A. Say that again.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I don't recall that being said. 2 Q. Well, we've gone from it never 3 said to I don't recall. Which one is it? 4 A. I don't think he said that, no. 5 Q. Now, would you agree that an 6 executive board filled with ineffective 7 leaders serving three years could be harmful 8 to the union? 9 A. Yes. 10 Q. Now, during the call with 11 Mr. Dougherty, there was discussions about 12 whether you were going to run as an 13 independent or with others, correct? 14 A. Yes. 15 Q. All right. And didn't 16 Mr. Dougherty suggest that if you run, make 17 sure you're on a campaign which helps the 18 union and not hurts the union or words to that 19 effect? 20 MS. DEBRUICKER: Objection to 21 form. 22 THE WITNESS: I remember him 23 saying, you know, you're going to need 24 a lot of money, and, you know, you're</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Sure. That Mr. Dougherty said 2 -- and I'm -- it could be words to this 3 effect, okay -- that a board which is not 4 effective during its three-year term could 5 hurt the union and its members. 6 MS. DEBRUICKER: Objection to 7 form. 8 THE WITNESS: I don't remember 9 some of that. 10 BY MR. PODRAZA: 11 Q. Well, do you think it makes 12 sense? 13 A. It makes sense. 14 Q. And didn't Mr. Dougherty infer 15 to you during the call that you weren't ready 16 to effectively serve the members if you won a 17 three-year term on the board? 18 A. I don't remember that. 19 Q. And didn't Mr. Dougherty 20 suggest you should run for a less prominent 21 position with the union first before running 22 for the board? 23 A. That was never said. 24 Q. You're positive?</p>	<p style="text-align: right;">Page 65</p> <p>1 going to need a team to put a campaign 2 together. 3 BY MR. PODRAZA: 4 Q. And you were going to run 5 independent, correct? 6 A. I was. 7 Q. You didn't view those words 8 from Mr. Dougherty to be threatening, correct, 9 that he was pointing out that having a team 10 helps with the finances versus running 11 independent? 12 MS. DEBRUICKER: Objection to 13 form. 14 THE WITNESS: Say the question 15 again. 16 BY MR. PODRAZA: 17 Q. Yeah. Did you feel threatened 18 by Mr. Dougherty's statement of the elections 19 are expensive and running independent is 20 harder than running with a team? 21 A. That specific, no. 22 Q. Okay. And didn't Mr. Dougherty 23 also say to you that he understood that you 24 had worked four or five jobs with Charlie</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 66</p> <p>1 Battle?</p> <p>2 MS. DEBRUICKER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: What was it</p> <p>5 again?</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. Yeah. In the conversation with</p> <p>8 Mr. Dougherty, didn't he also say that he</p> <p>9 believed you had worked four or five jobs with</p> <p>10 Charlie Battle?</p> <p>11 MS. DEBRUICKER: Objection to</p> <p>12 form.</p> <p>13 THE WITNESS: I've never worked</p> <p>14 with Charlie Battle before, no.</p> <p>15 BY MR. PODRAZA:</p> <p>16 Q. Okay. And in the conversation</p> <p>17 did Mr. Dougherty suggest that, you know,</p> <p>18 Charlie Battle becoming a union officer really</p> <p>19 wouldn't be good for the union or words to</p> <p>20 that effect?</p> <p>21 A. I don't remember that.</p> <p>22 Q. Well, was Mr. Dougherty kind of</p> <p>23 suggesting that he thought that you might be</p> <p>24 associating with Charlie Battle and guys who</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. DEBRUICKER: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: He didn't say</p> <p>4 what it was.</p> <p>5 BY MR. PODRAZA:</p> <p>6 Q. Because I think in your</p> <p>7 statement you say that Mr. Dougherty said</p> <p>8 something along the lines that they were</p> <p>9 posting, and one of the examples were they</p> <p>10 were saying he was hiding behind his sick</p> <p>11 wife.</p> <p>12 Does that help refresh your</p> <p>13 recollection?</p> <p>14 MS. DEBRUICKER: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: I remember seeing</p> <p>17 it after the fact, not during that --</p> <p>18 I mean, I didn't know anything about</p> <p>19 that before the conversation.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. All right. But Mr. Dougherty</p> <p>22 was saying to you that they were posting stuff</p> <p>23 that was hurtful to him, correct?</p> <p>24 MS. DEBRUICKER: Objection to</p>
<p style="text-align: right;">Page 67</p> <p>1 were considering running?</p> <p>2 A. He did.</p> <p>3 Q. Didn't he express concern that,</p> <p>4 hey, those guys, you might want to be</p> <p>5 concerned about the stigma that might come by</p> <p>6 you campaigning with them on the same slate?</p> <p>7 Wasn't that part of the conversation?</p> <p>8 MS. DEBRUICKER: Objection to</p> <p>9 form.</p> <p>10 THE WITNESS: I mean, I don't</p> <p>11 remember, but I can't answer that. I</p> <p>12 don't remember.</p> <p>13 BY MR. PODRAZA:</p> <p>14 Q. And didn't Mr. Dougherty, you</p> <p>15 know, suggest to you -- or strike that.</p> <p>16 During that conversation there</p> <p>17 was also reference made to the website,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And Mr. Dougherty said</p> <p>21 something along the lines that on that website</p> <p>22 there were postings anonymously that were</p> <p>23 hurtful of him, like he was hiding behind his</p> <p>24 sick wife, correct?</p>	<p style="text-align: right;">Page 69</p> <p>1 form.</p> <p>2 THE WITNESS: He screamed at</p> <p>3 the end of the conversation in the</p> <p>4 microphone.</p> <p>5 BY MR. PODRAZA:</p> <p>6 Q. Okay. And did Mr. Dougherty</p> <p>7 refer to that website as the postings that</p> <p>8 were quote, sexist and racist, end quote?</p> <p>9 MS. DEBRUICKER: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: Not to me he</p> <p>12 didn't, no.</p> <p>13 BY MR. PODRAZA:</p> <p>14 Q. No? Did Mr. Dougherty say, you</p> <p>15 know, if you associate with that other group,</p> <p>16 which he thought was connected to the website,</p> <p>17 you'll be remembered for the disgusting</p> <p>18 postings on the website like, quote, Marita</p> <p>19 Crawford takes it in the butt, end quote, if</p> <p>20 you ran with guys connected to that website?</p> <p>21 Do you remember him saying</p> <p>22 that?</p> <p>23 A. He didn't say it on that</p> <p>24 conversation, no.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 70</p> <p>1 Q. When did he say it to you?</p> <p>2 A. I never -- he never said that</p> <p>3 to me.</p> <p>4 Q. Okay. At some point you became</p> <p>5 aware of the nasty posting on that website,</p> <p>6 correct?</p> <p>7 A. I did.</p> <p>8 Q. All right. And one of the</p> <p>9 postings accused a Larry of sodomizing</p> <p>10 Dougherty's mother.</p> <p>11 Were you aware of that posting?</p> <p>12 A. No, I don't.</p> <p>13 Q. Okay. Well, let me show you</p> <p>14 what we're going to mark as Exhibit-2.</p> <p>15 ---</p> <p>16 (Exhibit McConnell-2 was marked</p> <p>17 for identification.)</p> <p>18 ---</p> <p>19 BY MR. PODRAZA:</p> <p>20 Q. If you want to take a moment to</p> <p>21 go through them, you're welcome to, but just</p> <p>22 let me know when you're ready to proceed. And</p> <p>23 while you're doing that I'm going to grab some</p> <p>24 water.</p>	<p style="text-align: right;">Page 72</p> <p>1 And then it continues. There's</p> <p>2 a posting that follows in which</p> <p>3 Mr. Dougherty's daughter is referred to as a</p> <p>4 quote, carpet muncher, end quote.</p> <p>5 Do you see that there, sir?</p> <p>6 A. I do.</p> <p>7 Q. Were you aware of that posting?</p> <p>8 A. I don't remember exactly what</p> <p>9 postings.</p> <p>10 Q. Well, my specific question is</p> <p>11 were you aware of this posting which refers to</p> <p>12 Mr. Dougherty's daughter as a quote, carpet</p> <p>13 muncher, end quote?</p> <p>14 A. I don't remember.</p> <p>15 Q. And the next posting refers to</p> <p>16 a Marita as being sodomized by her new lawyer</p> <p>17 boyfriend.</p> <p>18 Were you aware of that posting?</p> <p>19 A. I don't remember that one</p> <p>20 either.</p> <p>21 Q. Would it upset you if postings</p> <p>22 like this were made about your loved ones?</p> <p>23 A. It would.</p> <p>24 Q. And you wouldn't consider the</p>
<p style="text-align: right;">Page 71</p> <p>1 ---</p> <p>2 (There was a discussion held</p> <p>3 off the record.)</p> <p>4 ---</p> <p>5 MR. PODRAZA: Why don't we take</p> <p>6 a break now. It would be great.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 4:41. Going off the video record.</p> <p>9 ---</p> <p>10 (There was a brief recess in</p> <p>11 the proceeding.)</p> <p>12 ---</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 4:46. We are on the video record.</p> <p>15 BY MR. PODRAZA:</p> <p>16 Q. All right. Mr. McConnell,</p> <p>17 before you we've marked a collection of what</p> <p>18 I'll represent to you are postings on "The</p> <p>19 Truth About Your Union" website.</p> <p>20 A. Uh-hum.</p> <p>21 Q. And the first one I kind of</p> <p>22 summarized in my last question to you on</p> <p>23 whether you were aware of about the quote,</p> <p>24 Larry, end quote.</p>	<p style="text-align: right;">Page 73</p> <p>1 person making such postings to be your friend,</p> <p>2 would you?</p> <p>3 A. No, I wouldn't.</p> <p>4 Q. You would not?</p> <p>5 A. I wouldn't, no.</p> <p>6 Q. It would be just the opposite.</p> <p>7 You'd consider the poster of such vile claims</p> <p>8 to be an enemy, wouldn't you?</p> <p>9 A. Yes.</p> <p>10 Q. And you would agree with me</p> <p>11 that generally a friend is someone who</p> <p>12 supports you, while an enemy is someone who's</p> <p>13 against you, correct?</p> <p>14 A. Yes.</p> <p>15 MS. DEBRUICKER: Objection to</p> <p>16 form.</p> <p>17 BY MR. PODRAZA:</p> <p>18 Q. Is it fair to say that</p> <p>19 Mr. Dougherty seemed pretty upset about the</p> <p>20 disgusting website postings about him and his</p> <p>21 family that people posed to him in your call</p> <p>22 with him on June 8th, 2020?</p> <p>23 A. Yes.</p> <p>24 Q. From your vantage point, do you</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 74</p> <p>1 think he was upset because of how vile these 2 postings were and how offensive they were 3 about him and his family? 4 MS. DEBRUICKER: Objection to 5 form. 6 THE WITNESS: I would be angry 7 too. 8 BY MR. PODRAZA: 9 Q. By the way, do you consider 10 yourself a friend of business agent Rodney 11 Walker? 12 A. I've known Rodney for a while, 13 yes. 14 Q. Do you consider him a close 15 friend? 16 A. He's a friend. 17 Q. Is your wife related to Pat 18 Gillespie? 19 A. No. 20 Q. Do you vacation in North 21 Wildwood? 22 A. I do. 23 Q. All right. And does Jim Foy 24 also vacation there?</p>	<p style="text-align: right;">Page 76</p> <p>1 first-year apprentice when I got in. 2 Q. Okay. So he wasn't the one 3 responsible for getting you into the 4 apprentice program? 5 A. No. 6 Q. All right. And what does 7 Mr. Ryan do for a living? 8 A. He's an electrician. 9 Q. Okay. Do you find Mr. Ryan to 10 be trustworthy? 11 A. Yes. 12 Q. Is he honest? 13 A. Yeah. 14 Q. Reliable? 15 A. Yeah. 16 Q. Now, do you also know that 17 Mr. Ryan and Brian Eddis have known each other 18 for many years? 19 A. Yes. 20 Q. Okay. And Mr. Eddis is a ward 21 leader, correct? 22 A. Yes. 23 Q. And Mr. Ryan is a democratic 24 committeeman; is that correct?</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Yes. 2 Q. And do you socialize with 3 Mr. Foy while you're on vacation there? 4 A. I do. 5 Q. Okay. Now, there's reference 6 at some point to a separate call by a 7 gentleman named Jim Ryan. Okay? 8 You've known Mr. Ryan for many 9 years, haven't you? 10 A. Yes. 11 Q. All right. He's your best if 12 -- he's one of your best, if not your best 13 friend, correct? 14 A. Yes. 15 Q. Okay. And as I understand, you 16 were in each other's weddings, correct? 17 A. Yes. 18 Q. You both are godparents to each 19 other's kids? 20 A. Yes. 21 Q. Was it Mr. Ryan who got you 22 into Local 98? 23 A. I mean, I was trying to get in 24 for four years, but, no, he was only a</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Yes. 2 Q. And am I correct that you have 3 known Mr. Eddis through politics for several 4 years? 5 A. Yes. 6 Q. You're a democrat and Mr. Eddis 7 is a democrat, correct? 8 A. He's my ward leader. He was my 9 ward leader. 10 Q. Now, some time before the call 11 -- this is before the call we're going to get 12 into with Mr. Ryan -- you had -- Mr. Ryan was 13 one of the few people that you had told that 14 you were thinking about running for office; is 15 that correct? 16 A. I don't even think Jim knew. 17 Q. Well, Mr. Ryan says that he did 18 and said he spoke with you before the call 19 that we'll get into. 20 Does that help refresh your 21 recollection? 22 MS. DEBRUICKER: Objection to 23 form. 24 THE WITNESS: I don't remember,</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 78</p> <p>1 but -- I don't remember him knowing, 2 no. 3 BY MR. PODRAZA: 4 Q. Would you have any reason to 5 disagree with what Mr. Ryan says? 6 A. No. If I said it, I mean, it 7 might be true. 8 Q. All right. Now, if Mr. Ryan 9 said that during that talk he told you that 10 being a union officer was a big commitment, 11 a lot of work in addition to your 40-plus-hour 12 week as an electrician, do you remember that 13 conversation? 14 MS. DEBRUICKER: Objection to 15 form. 16 THE WITNESS: I talked to 17 Jimmy. I don't really recall it. 18 BY MR. PODRAZA: 19 Q. All right. Well, if Mr. Ryan 20 says that he told you that, well, would you 21 have any reason to disagree with him? 22 THE WITNESS: I wouldn't, no. 23 MS. DEBRUICKER: Objection to 24 form.</p>	<p style="text-align: right;">Page 80</p> <p>1 I would have known that information. 2 Maybe he said it, but I don't recall. 3 BY MR. PODRAZA: 4 Q. Okay. Now, according to 5 Mr. Ryan he also said to you words to the 6 effect that you have four kids, where are you 7 going to get the time to be an officer. 8 Do you remember that? 9 MS. DEBRUICKER: Objection to 10 form. 11 THE WITNESS: I remember him 12 saying that after the fact, after. 13 BY MR. PODRAZA: 14 Q. Okay. And he said that because 15 he knew you were a family man and enjoyed 16 spending your free time with your family and 17 attending your kids events. 18 Do you recall him talking to 19 you about that? 20 MS. DEBRUICKER: Objection to 21 form. 22 THE WITNESS: Again, I don't 23 know -- I don't -- you know, we talk 24 a lot, so I don't really remember that</p>
<p style="text-align: right;">Page 79</p> <p>1 BY MR. PODRAZA: 2 Q. All right. And Mr. Ryan then 3 said that he also said he did not think many 4 union positions were paid positions. 5 Do you recall that? 6 MS. DEBRUICKER: Objection to 7 form. 8 THE WITNESS: No. 9 BY MR. PODRAZA: 10 Q. All right. If Mr. Ryan, again, 11 said that that's what he relayed to you or 12 said to you, would you have any reason to 13 disagree with him? 14 MS. DEBRUICKER: Objection to 15 form. 16 THE WITNESS: Resay that, what 17 was said. 18 BY MR. PODRAZA: 19 Q. Yeah. So Mr. Ryan also said he 20 did not think many union positions were paid 21 positions. 22 MS. DEBRUICKER: Objection to 23 form. 24 THE WITNESS: I already knew --</p>	<p style="text-align: right;">Page 81</p> <p>1 exact conversation. 2 BY MR. PODRAZA: 3 Q. Well, if he does, would you 4 have any reason to doubt him? 5 A. No. 6 Q. All right. Now, that type of 7 subject area we just went over, that Mr. Ryan 8 says that he had a conversation with you 9 before he had a telephone call with you, those 10 were the kind of issues that Mr. Dougherty 11 also raised in your June 8th call with him, 12 didn't he? 13 MS. DEBRUICKER: Objection. 14 THE WITNESS: In the call you 15 mean? 16 MR. PODRAZA: Yeah, in that 17 45-minute or so -- the long call. 18 THE WITNESS: He might have 19 said some of them things. 20 BY MR. PODRAZA: 21 Q. Okay. And according to 22 Mr. Ryan he said to you that -- words to the 23 effect that you'd be crazy to want to be a 24 union officer.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 82</p> <p>1 Do you remember that?</p> <p>2 MS. DEBRUICKER: Objection to</p> <p>3 form. Foundation.</p> <p>4 THE WITNESS: I mean, he --</p> <p>5 yeah, I mean, he said that before,</p> <p>6 but, yeah, I would think, yeah, that's</p> <p>7 something he would have said.</p> <p>8 BY MR. PODRAZA:</p> <p>9 Q. Now, the Department of Labor</p> <p>10 makes a mention of a call between you and</p> <p>11 Mr. Ryan on June 9th, correct?</p> <p>12 MS. DEBRUICKER: Objection.</p> <p>13 Foundation.</p> <p>14 THE WITNESS: I don't remember</p> <p>15 exactly when the phone call was made.</p> <p>16 It was within two days after.</p> <p>17 BY MR. PODRAZA:</p> <p>18 Q. Well, you reviewed your</p> <p>19 statement. Your statement says the call with</p> <p>20 Mr. Ryan occurred on June 9th.</p> <p>21 Do you recall that in your</p> <p>22 statement?</p> <p>23 MS. DEBRUICKER: Objection.</p> <p>24 Foundation.</p>	<p style="text-align: right;">Page 84</p> <p>1 before you spoke with him, correct?</p> <p>2 MS. DEBRUICKER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: No, that really</p> <p>5 didn't, no.</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. No, it didn't impact it?</p> <p>8 A. It didn't impact it, no.</p> <p>9 Q. Okay. Now, I'm going to show</p> <p>10 you what Mr. Ryan says was the nature of the</p> <p>11 call that he had with you, and we're going to</p> <p>12 mark this as Exhibit-3.</p> <p>13 - - -</p> <p>14 (Exhibit-3 was marked for</p> <p>15 identification.)</p> <p>16 - - -</p> <p>17 BY MR. PODRAZA:</p> <p>18 Q. And take a moment, and when</p> <p>19 you're done reviewing it let me know, and I'll</p> <p>20 have a couple questions.</p> <p>21 A. Okay.</p> <p>22 Q. Okay. Do you recognize this to</p> <p>23 be the handwriting of Mr. Ryan?</p> <p>24 A. I don't know what his</p>
<p style="text-align: right;">Page 83</p> <p>1 THE WITNESS: Yeah. I mean, if</p> <p>2 that's -- I would have remembered</p> <p>3 better back then than I do now, but I</p> <p>4 don't -- if that's what it says, it's</p> <p>5 probably --</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. And you were being truthful</p> <p>8 when you were doing your statement with the</p> <p>9 Department of Labor, right?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Now, if you spoke</p> <p>12 with Mr. Ryan on June 9th, then you spoke with</p> <p>13 him after you had already notified the union</p> <p>14 of your intention not to run, correct?</p> <p>15 A. Yes, after backing out, yes.</p> <p>16 Q. Okay. So you already sent your</p> <p>17 text on June 8th saying I'm not going to run,</p> <p>18 I'm not going to be a candidate, and then,</p> <p>19 according to your statement, you spoke with</p> <p>20 Mr. Ryan, correct, on June 9th?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So what Mr. Ryan said to</p> <p>23 you didn't have any bearing on your decision</p> <p>24 not to run since you already made the decision</p>	<p style="text-align: right;">Page 85</p> <p>1 handwriting looks like.</p> <p>2 Q. Okay. Well, at least according</p> <p>3 to the document it says, "was called by Brian</p> <p>4 Eddis when Tim McConnell was running for</p> <p>5 office in Local 98 election. Phone</p> <p>6 conversation" -- I believe the next word is</p> <p>7 supposed to be consistent, but it's</p> <p>8 misspelled.</p> <p>9 A. Uh-hum.</p> <p>10 Q. "Brian Eddis telling me that</p> <p>11 Tim was being used and manipulated in running</p> <p>12 in the election. The people he was running</p> <p>13 with would not look out for him. I spoke with</p> <p>14 Tim on the phone about what Brian said shortly</p> <p>15 after. I told Tim it is not worth the</p> <p>16 aggravation to run. People do not care. Take</p> <p>17 care of your family."</p> <p>18 Now, and as you can see,</p> <p>19 Mr. Ryan signed the document under penalty of</p> <p>20 perjury. Do you see that there?</p> <p>21 A. Uh-hum.</p> <p>22 Q. All right. Now, Mr. Ryan's</p> <p>23 description of the call with you in his sworn</p> <p>24 statement, that's accurate, correct?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 86</p> <p>1 A. It said shortly after, but I 2 think it was the following day I wound up 3 talking to him. 4 Q. But the way he describes the 5 call in his sworn statement is accurate, 6 correct? 7 MS. DEBRUICKER: Objection. 8 THE WITNESS: Yeah. 9 BY MR. PODRAZA: 10 Q. Okay. You can put that aside. 11 I'd like to now ask you some questions about 12 your decision not to run. 13 A. Uh-hum. 14 Q. Now, after you spoke with 15 Mr. Dougherty -- and you may or may not have 16 spoken with Mr. Ryan -- I don't know if that 17 call occurred before or on June 8th or if it's 18 on June 9th -- you did send a text to union 19 safety director Lynch, correct? 20 A. Uh-hum. 21 Q. And that's Exhibit-1, which you 22 have in front of you. 23 A. Uh-hum. 24 Q. Now, if you take a look at</p>	<p style="text-align: right;">Page 88</p> <p>1 calls too. 2 Q. Okay. In your text to 3 Mr. Lynch you say, "yo, I'm out, I thought 4 about it." 5 Do you see that there? 6 A. Uh-hum. 7 Q. When you say "yo, I'm out", 8 you're telling him you're not going to run, 9 correct? 10 A. I'm not going to run, no, not 11 at that point, no. 12 Q. You weren't going to run, 13 period? 14 A. Yes, no. 15 Q. So you're telling the union 16 that you thought about it and I'm not running, 17 period, correct? 18 A. At that point when I send the 19 text, yes. 20 Q. Well, did that point change at 21 some point? 22 MS. DEBRUICKER: Objection to 23 form. 24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 87</p> <p>1 Exhibit-1, that text was received at 7:33 p.m. 2 A. Uh-hum. 3 Q. Take your time. 4 A. Yeah. 5 Q. Okay. And that's about an hour 6 and a half after your first text to Mr. Lynch 7 to say you were thinking about running for the 8 union board, correct? 9 A. Yes. 10 Q. All right. And in between the 11 two texts you had spoken with Mr. Dougherty, 12 correct? 13 A. Uh-hum. 14 Q. And that was for a long call. 15 You say about 45 minutes of the hour and a 16 half, correct? 17 A. Uh-hum. 18 Q. And then possibly separately 19 with Mr. Ryan, correct? 20 A. I didn't talk to Jimmy 'til the 21 next day. 22 Q. Okay. So then it was just 23 Mr. Dougherty? 24 A. I got a couple other phone</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Because I'm not aware of any 2 other texts to Mr. Lynch where you said, oh, 3 changed my mind or words to that effect. 4 A. I would say the couple phone 5 calls I got between the two texts changed my 6 mind. 7 Q. So changed your mind to say I 8 don't want to run? 9 A. Yes. 10 Q. Okay. And you never changed 11 your mind after that. You weren't running as 12 of June 8th, 2020, 7:33 p.m. to Mr. Lynch, 13 correct? 14 A. Not at that time. No, I was 15 out. 16 Q. All right. Well, did you 17 change your mind after that? 18 A. Um -- 19 Q. Because I didn't see anything 20 in your statement about flipping back and 21 forth. 22 A. No. At that point I was out. 23 Q. Well, when you say at that 24 point, that means you're opening the door that</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 90</p> <p>1 some time on June 9th you could have changed 2 your mind or some time after June 8th, at 7:33 3 p.m. 4 Did you as of June 8th, 7:33 5 p.m., say I am not running, and that was the 6 final decision? Or did it flip-flop some time 7 later? 8 MS. DEBRUICKER: Objection to 9 form. 10 THE WITNESS: No. It was 11 probably the phone calls in between 12 that made me back out, yes. 13 BY MR. PODRAZA: 14 Q. And those phone calls occurred 15 before the text on June 8th, 7:33 p.m., 16 correct? 17 A. Yes. 18 Q. All right. So as of June 8th, 19 7:33 p.m., you were no longer in the election, 20 and you never changed your mind after that, 21 correct? 22 A. No, correct. 23 Q. Correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 connected with the people who made those kind 2 of postings, right? 3 MS. DEBRUICKER: Objection to 4 form. 5 THE WITNESS: I guess he 6 thought that. 7 BY MR. PODRAZA: 8 Q. Well, I'm just -- was that your 9 impression? 10 A. Yeah, I guess. Yeah, that's 11 what I thought he thought. 12 Q. And you could understand that 13 people posting stuff that was so offensive and 14 vile about Mr. Dougherty, his friends, and his 15 family, would make them enemy, no, wouldn't 16 it? 17 A. It would. 18 Q. And you can understand that 19 people who are doing that would be against him 20 and not for him, correct? 21 A. Correct. 22 MS. DEBRUICKER: Objection to 23 form. 24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. All right. So your text then 2 continues, "I'm a hundred percent against what 3 happened on that website." 4 What did you mean by that? 5 A. I didn't agree with the 6 comments that were written there. 7 Q. So you had reviewed some of 8 those comments by that point; is that correct? 9 A. After the conversation with 10 John, I did go on the website and looked and 11 seen some of the comments. 12 Q. All right. And did you find 13 them to be offensive? 14 A. I did. 15 Q. And your text continues, "don't 16 want to be tied in with that." 17 What did you mean by that? 18 A. Well, when I was talking on the 19 phone conversation with John, he made mention 20 that, you know -- that, you know, if you're 21 not with them you're against them and said -- 22 and pretty much said I would be tied with the 23 website. 24 Q. Because he thought you were</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Now, your text continues, "just 2 wanted a different face." That's where I had 3 earlier gotten that phrase. 4 What did you mean by that? 5 A. I really -- you know, I wanted 6 -- one of the problems I think is that the 7 five members that are on the board all had 8 paid positions that are appointed by the 9 business manager. 10 Q. But the board is elected, 11 correct? 12 A. It is. 13 Q. Okay. Not appointed by a 14 business manager, correct? 15 A. You're right, yep. 16 Q. Okay. Any other explanation 17 for just wanting a different face? 18 A. No. That's it. 19 Q. Okay. Were you being truthful 20 when you sent the 7:33 p.m. June 8th, 2020 21 text to Mr. Lynch? 22 MS. DEBRUICKER: Objection to 23 form. 24 THE WITNESS: Yeah.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 94</p> <p>1 BY MR. PODRAZA:</p> <p>2 Q. Okay. And you meant what you</p> <p>3 said in the text, correct?</p> <p>4 A. Yep.</p> <p>5 Q. Did you ever post on the</p> <p>6 website?</p> <p>7 A. Did I ever post on --</p> <p>8 Q. The Truth About your Union.</p> <p>9 A. No, I didn't.</p> <p>10 Q. Did you ever post on the other</p> <p>11 one?</p> <p>12 A. I did. I put my name on it.</p> <p>13 Q. Do you know anybody else who's</p> <p>14 posted on the first website?</p> <p>15 A. I don't.</p> <p>16 MS. DEBRUICKER: Objection to</p> <p>17 form. Counsel, can we distinguish</p> <p>18 between the first and second?</p> <p>19 BY MR. PODRAZA:</p> <p>20 Q. Well, there's a Truth About the</p> <p>21 Union -- there's so subtle difference, the</p> <p>22 name of the thing. There's website one and</p> <p>23 then website two after website one was</p> <p>24 disabled.</p>	<p style="text-align: right;">Page 96</p> <p>1 messing around, who were you messing around</p> <p>2 with?</p> <p>3 A. Oh, I don't know, just</p> <p>4 different people, you know, on the jobs.</p> <p>5 Just, you know, maybe make like a comment.</p> <p>6 Yeah, I mean, but outside of that I don't know</p> <p>7 a hundred percent that anybody put anything on</p> <p>8 there.</p> <p>9 Q. No one said to you -- well,</p> <p>10 strike that.</p> <p>11 You had no knowledge of anybody</p> <p>12 who has posted more than once or either one of</p> <p>13 the websites beside those who have identified</p> <p>14 themselves?</p> <p>15 MS. DEBRUICKER: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: No, not really,</p> <p>18 no.</p> <p>19 BY MR. PODRAZA:</p> <p>20 Q. Did you go to the union hall on</p> <p>21 June 9th, 2020?</p> <p>22 A. That was the nomination?</p> <p>23 Q. Nomination.</p> <p>24 A. No, I didn't.</p>
<p style="text-align: right;">Page 95</p> <p>1 You understand what I'm talking</p> <p>2 about, right?</p> <p>3 A. So website one was the one with</p> <p>4 these comments in it.</p> <p>5 Q. Right.</p> <p>6 A. And -- okay. Yeah, that's --</p> <p>7 I've never posted on that website.</p> <p>8 Q. Okay. And then the second</p> <p>9 website, did you post on that?</p> <p>10 A. I did, and I put my name on it.</p> <p>11 Q. All right. And do you know of</p> <p>12 anybody else who's posted on either the first</p> <p>13 one or the second one?</p> <p>14 A. Just the people that put their</p> <p>15 name on it.</p> <p>16 Q. None of the anonymous posters?</p> <p>17 A. I don't.</p> <p>18 Q. Nobody at the work site said</p> <p>19 anything, has expressed taking ownership of</p> <p>20 some of the postings anonymously?</p> <p>21 A. Maybe messing around, but not</p> <p>22 -- you know, not a hundred percent, you know,</p> <p>23 anything.</p> <p>24 Q. All right. When you say</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. At some time did you become</p> <p>2 aware that Mr. Battle had filed a protest over</p> <p>3 the June 9th, 2020 nomination proceeding?</p> <p>4 A. I did.</p> <p>5 Q. How did you find out?</p> <p>6 A. I got a phone call. I think I</p> <p>7 got a phone call actually from the</p> <p>8 International first, from Randy Kieffer.</p> <p>9 Q. Okay. And then you said you</p> <p>10 got a call first from Randy Kieffer.</p> <p>11 Did you speak with anybody else</p> <p>12 after that call?</p> <p>13 A. Randy called me a couple times,</p> <p>14 and then after that the Department of Labor.</p> <p>15 Q. Did Charlie Battle ever speak</p> <p>16 with you?</p> <p>17 A. Probably. I don't remember.</p> <p>18 Q. Do you remember Charlie</p> <p>19 reaching out to you and saying, look, the</p> <p>20 International is looking into my protest, they</p> <p>21 want to know if you'll speak with them about</p> <p>22 your experience?</p> <p>23 A. I don't remember the</p> <p>24 International, when that was going, I don't</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 98</p> <p>1 think until they called me. But the 2 Department of Labor I probably knew before 3 they called. 4 Q. All right. Meaning you spoke 5 with Charlie Battle before that? 6 A. Right. I think he made it 7 known he put a protest in. 8 Q. Did you speak with Cliff 9 Haines, Charlie Battle's lawyer? 10 A. No. 11 Q. Do you know who Cliff Haines 12 is? 13 A. I don't. 14 Q. Are you sure before you 15 actually spoke with Randy Kieffer that you 16 didn't have a conversation with -- well, 17 strike that. I always hate doing the 18 negative. 19 Did you have a conversation 20 with Mr. Battle prior to speaking with 21 Mr. Kieffer about what you could expect in 22 your conversation with International? 23 A. I don't remember having that 24 conversation.</p>	<p style="text-align: right;">Page 100</p> <p>1 with you at least two times; is that about 2 right? 3 A. Yes. 4 Q. Okay. Was Mr. Kieffer 5 pleasant? 6 A. Yes. 7 Q. Okay. Did he act 8 professionally? 9 A. Yeah. 10 Q. Did he say or do anything that 11 was offensive to you? 12 A. No. 13 Q. Did he give you every 14 opportunity to answer his questions? 15 A. Yeah. 16 Q. All right. And were you 17 truthful in your responses to Mr. Kieffer? 18 A. Yes. 19 Q. And were you honest? 20 A. Yes. 21 Q. Now, I'd like to show you what 22 we're going to mark here as McConnell-4. 23 - - - 24 (Exhibit McConnell-4 was marked</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Did you ever say to Mr. Battle 2 that you were too afraid to speak with the 3 International? 4 A. Again, I don't recall. 5 Q. You don't look like the type 6 that scares easily; is that right? 7 A. Well, I don't know. I mean, he 8 -- I thought by talking to International it 9 was going to get back anyway; that's what I 10 thought. So that's why, you know, I really 11 didn't -- I mean, I still -- I talked to them, 12 but -- that's my personal -- that was my 13 personal thing. 14 Q. Well, that's what I was going 15 to say. You didn't say I'm not going to speak 16 with them. You agreed to do so, right? 17 A. Yes. 18 Q. And we already established that 19 was Randy Kieffer? 20 A. Yes. 21 Q. All right. Now, before we get 22 into the conversation you had with Mr. Kieffer 23 -- well, let's first establish -- I believe 24 from Mr. Kieffer's notes it indicates he spoke</p>	<p style="text-align: right;">Page 101</p> <p>1 for identification.) 2 - - - 3 BY MR. PODRAZA: 4 Q. And take a moment to review 5 what we're marking here as McConnell-4, and 6 after you're done I have a few questions for 7 you. Just let me know when you've completed 8 it. 9 A. Okay. 10 Q. Okay. This document that we've 11 marked here as McConnell-4, it's a document 12 that was generated by Mr. Kieffer on 13 January 24, 2020. 14 Do you see that? 15 A. Uh-hum. 16 MS. DEBRUICKER: Counsel -- 17 THE WITNESS: It was July. 18 BY MR. PODRAZA: 19 Q. I'm sorry, did I say January? 20 A. You did. 21 Q. Excuse me. I'm sorry. Let me 22 try that over again. 23 This is a document by 24 Mr. Kieffer that's dated July 24th, 2020. Is</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 102</p> <p>1 this the document that you were referring to</p> <p>2 earlier when we first started that opposing</p> <p>3 counsel went over with you?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So you're familiar</p> <p>6 generally with the contents?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. If you turn to the</p> <p>9 second page it states, "I spoke to Brother</p> <p>10 McConnell on July 22, 2020"; is that correct?</p> <p>11 A. Uh --</p> <p>12 Q. Or maybe a better way to say</p> <p>13 it, do you have any reason to disagree with</p> <p>14 that?</p> <p>15 A. I don't.</p> <p>16 Q. All right. And Mr. Kieffer --</p> <p>17 excuse me. Yeah, Mr. Kieffer goes on saying,</p> <p>18 "Brother McConnell told me that he considered</p> <p>19 running for an executive board position in the</p> <p>20 Local Union 98 elections. He told me he was</p> <p>21 not running with a ticket and was not</p> <p>22 assisting Charles Battle with his campaign.</p> <p>23 Brother McConnell stated he considered running</p> <p>24 for an e-board position because he just</p>	<p style="text-align: right;">Page 104</p> <p>1 threatened. I personally thought I was</p> <p>2 threatened work-wise, employment-wise.</p> <p>3 Q. Okay.</p> <p>4 THE VIDEOGRAPHER: Counsel,</p> <p>5 we're at the end of the tape. I just</p> <p>6 need to go off the record for a</p> <p>7 moment.</p> <p>8 MR. PODRAZA: All right.</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 5:16. Going off the video record.</p> <p>11 This concludes media unit one.</p> <p>12 - - -</p> <p>13 (There was a brief recess in</p> <p>14 the proceeding.)</p> <p>15 - - -</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 5:17. We are on the video record.</p> <p>18 This begins media unit two.</p> <p>19 BY MR. PODRAZA:</p> <p>20 Q. All right. Why don't we</p> <p>21 clarify your testimony here.</p> <p>22 Mr. Kieffer writes, "Brother</p> <p>23 McConnell said he got a phone call from Local</p> <p>24 98 business manager John Dougherty, and they</p>
<p style="text-align: right;">Page 103</p> <p>1 thought he could help Local Union 98 move</p> <p>2 forward."</p> <p>3 Do you disagree -- excuse me --</p> <p>4 do you agree or disagree with what Mr. Kieffer</p> <p>5 has attributed to you?</p> <p>6 A. That's right.</p> <p>7 Q. Okay. Now, in the next</p> <p>8 paragraph Mr. Kieffer writes, "Brother</p> <p>9 McConnell said he got a phone call from Local</p> <p>10 Union 98 business manager John Dougherty and</p> <p>11 he spoke about 45 minutes about upcoming</p> <p>12 nominations. Brother McConnell said business</p> <p>13 manager Dougherty did not directly threaten"</p> <p>14 -- it says "threaten," but I believe he meant</p> <p>15 threatened him -- "not to run for office, but</p> <p>16 conversation made him, quote, feel funny, end</p> <p>17 quote."</p> <p>18 A. That part, I never said, but --</p> <p>19 Q. The feel funny you never said?</p> <p>20 A. Yeah, I don't remember ever</p> <p>21 saying that.</p> <p>22 Q. But you did say you were not</p> <p>23 directly threatened; is that correct?</p> <p>24 A. So I was never physically</p>	<p style="text-align: right;">Page 105</p> <p>1 spoke about 45 minutes about upcoming</p> <p>2 nominations."</p> <p>3 Is that true that you said that</p> <p>4 to him?</p> <p>5 A. Yes, probably.</p> <p>6 Q. All right. "Then Brother</p> <p>7 McConnell said business manager Dougherty did</p> <p>8 not directly threaten him not to run for</p> <p>9 office."</p> <p>10 Is that true, that you told</p> <p>11 Kieffer that Mr. Dougherty did not directly</p> <p>12 threaten you not to run for office?</p> <p>13 A. When he asked the question, he</p> <p>14 asked physically, did he physical threaten.</p> <p>15 Like that's what he said. I don't know what</p> <p>16 part of the conversation. Or we talked twice,</p> <p>17 so I don't know where he -- what he's trying</p> <p>18 to say. I mean, directly threatened, I never</p> <p>19 was directly threatened.</p> <p>20 Q. Okay. And then he goes on to</p> <p>21 write, "but the conversation made you" --</p> <p>22 Mr. McConnell -- "quote, feel funny, end</p> <p>23 quote."</p> <p>24 Did you say that to</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 106</p> <p>1 Mr. Kieffer?</p> <p>2 A. I don't remember saying that.</p> <p>3 Q. All right. And then</p> <p>4 Mr. Kieffer goes on, "this conversation</p> <p>5 consisted of things like why change officers</p> <p>6 when things are so good and working well."</p> <p>7 Did you say that to Mr. Kieffer</p> <p>8 that that's what Mr. Dougherty said in the</p> <p>9 conversation?</p> <p>10 A. I did.</p> <p>11 MS. DEBRUICKER: Counsel, where</p> <p>12 are you?</p> <p>13 MR. PODRAZA: I was halfway</p> <p>14 through the second paragraph.</p> <p>15 MS. DEBRUICKER: Thank you.</p> <p>16 BY MR. PODRAZA:</p> <p>17 Q. And then he continued, "Brother</p> <p>18 McConnell said the only thing that could have</p> <p>19 been taken as intimidation was business</p> <p>20 manager Dougherty said, quote, if you lose the</p> <p>21 election it could be a long three years. Not</p> <p>22 knowing exactly what that meant it made him</p> <p>23 reconsider running for office."</p> <p>24 Did you say that to</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. All right. So that was your</p> <p>2 personal take on it, but there were several</p> <p>3 interpretations of what those words could mean</p> <p>4 that would be reasonable, wouldn't you agree?</p> <p>5 MS. DEBRUICKER: Objection.</p> <p>6 THE WITNESS: It could have.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Well, did you consider in the</p> <p>9 conversation that what Mr. Dougherty was</p> <p>10 meaning is if you get on the board you're</p> <p>11 totally inexperienced, you could make dumb</p> <p>12 decisions that could hurt us all, and that</p> <p>13 would be a three-year term?</p> <p>14 A. I mean, at that point -- I</p> <p>15 mean, he was pretty angry at that point in the</p> <p>16 conversation.</p> <p>17 Q. Was that after he was talking</p> <p>18 about the website and all that filthy stuff</p> <p>19 that was being said about him and his family?</p> <p>20 A. I think that was at the end of</p> <p>21 the conversation, but -- if I'm not mistaken.</p> <p>22 The website was at the very end.</p> <p>23 Q. Did you really think that</p> <p>24 Mr. Dougherty thought that you would be a</p>
<p style="text-align: right;">Page 107</p> <p>1 Mr. Kieffer?</p> <p>2 A. I don't recall that, but, yeah.</p> <p>3 Q. Okay. And he says that you did</p> <p>4 not know exactly what that meant, correct? Is</p> <p>5 that what you said to Mr. Kieffer?</p> <p>6 A. I think they're his personal</p> <p>7 words of what he took from the conversation.</p> <p>8 Q. Well, did you say to</p> <p>9 Mr. Kieffer I took those words to mean a</p> <p>10 threat from Mr. Dougherty?</p> <p>11 A. I mean, I probably -- when I</p> <p>12 said it could be a long three years, the way I</p> <p>13 took it when I was told it was, you know, you</p> <p>14 could have a hard time finding work for the</p> <p>15 next three years.</p> <p>16 Q. And it could have been</p> <p>17 Mr. Dougherty pointing out that if you get</p> <p>18 ineffective leaders on the board it could be a</p> <p>19 long three years for the members because they</p> <p>20 could get hurt, correct?</p> <p>21 MS. DEBRUICKER: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: It could have.</p> <p>24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 109</p> <p>1 threat to win an executive board position if</p> <p>2 you ran?</p> <p>3 MS. DEBRUICKER: Objection to</p> <p>4 form.</p> <p>5 THE WITNESS: I'm not sure what</p> <p>6 he thought.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. Well, why would a man threaten</p> <p>9 another man about running for an election if</p> <p>10 he doesn't even take him seriously in his</p> <p>11 possibility of winning?</p> <p>12 MS. DEBRUICKER: Objection to</p> <p>13 form.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Can you explain that to me?</p> <p>16 A. I don't know what he thought.</p> <p>17 Q. All right. So you weren't</p> <p>18 certain that those words which you say</p> <p>19 Mr. Dougherty relayed were actually telling</p> <p>20 you that you could lose work if you ran?</p> <p>21 A. I'm not certain.</p> <p>22 Q. Then Mr. Kieffer goes on in the</p> <p>23 following paragraph to say, "Brother McConnell</p> <p>24 told me that business manager Dougherty and</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 110</p> <p>1 Local 98 agent Brian Eddis had a conference 2 call with Jim Ryan regarding Tim McConnell 3 running for e-board and how that may not be 4 good for the local union." 5 Did you say that to 6 Mr. Kieffer? 7 A. I told him that Brian Eddis -- 8 let me read this again. Yeah. 9 Q. Yeah, you said to Mr. Kieffer? 10 A. Yes. 11 Q. Yeah. And an inexperienced 12 person making a decision on the executive 13 board would not be good for the local union; 14 is that correct? 15 MS. DEBRUICKER: Objection to 16 form. 17 THE WITNESS: I don't know. I 18 mean, I guess it could go either way. 19 BY MR. PODRAZA: 20 Q. Okay. Then he goes on to say, 21 "again, Brother McConnell said there were no 22 direct threats but again made him feel 23 uncomfortable." 24 Did you say that to him?</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Well, is it your belief that 2 Mr. Dougherty -- or excuse me -- that 3 Mr. Lynch didn't share your texts to him on 4 June 8th saying you're not running with 5 Mr. Dougherty, the business manager? 6 MS. DEBRUICKER: Objection to 7 form. Foundation. 8 BY MR. PODRAZA: 9 Q. Does that make any sense? 10 A. Say it again. 11 Q. You would have expected 12 Mr. Lynch to tell Mr. Dougherty, hey, I just 13 got a text from Mr. McConnell saying he's not 14 running June 8th, correct? 15 A. Yes. 16 Q. All right. So what do you care 17 if a business agent is calling you the next 18 day on the 9th, etc., if the senior 19 management, including the business manager, 20 are already aware that you're not running? 21 A. It just -- I mean, the phone 22 calls by itself I guess was what I was talking 23 about. 24 Q. That's what made you feel</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Probably did. 2 Q. Well, explain this to me. 3 You've already decided you're not going to 4 run. You spoke with Mr. Dougherty. You had 5 some other conversations, and then you send 6 the text that we've gone over here on 7 June 8th, and you said that was it, I'm not 8 running. And your conversation with Mr. Ryan, 9 according to you, was the next day, June 9th. 10 Why would that make you feel 11 uncomfortable when you've already told the 12 union I'm not running and -- explain to me how 13 there would be repercussions since you said 14 you were not running. 15 A. I was getting phone calls all 16 day that day, the next day, people that talked 17 to a couple different agents, and they didn't 18 know that I wasn't running. 19 Q. But certainly the leadership, 20 Mr. Dougherty and the rest, knew it through 21 Mr. Lynch, correct? 22 A. A couple of the -- I think a 23 couple of the phone calls came from people 24 that worked in the Local.</p>	<p style="text-align: right;">Page 113</p> <p>1 uncomfortable, getting a bunch of calls? 2 A. I don't know if I used that 3 exact word, but, yeah, I mean, I guess the 4 phone calls all day, you know -- well, in the 5 morning. 6 Q. Well, by that point knowing 7 that you weren't running and expecting that 8 senior leadership at the union knew that, you 9 didn't feel that there would be any 10 retaliation by your saying I'm not running, 11 correct? 12 MS. DEBRUICKER: Objection to 13 form. 14 THE WITNESS: I didn't know at 15 the time. 16 BY MR. PODRAZA: 17 Q. Who called you from inside the 18 Local? 19 A. Oh, I don't remember. It 20 didn't -- I'm not sure. 21 Q. Well, how many business agents 22 are there? 23 A. A lot. I don't know. 24 Q. Which ones would feel</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 114</p> <p>1 comfortable enough to give you a call?</p> <p>2 A. Well, it didn't have to be --</p> <p>3 it came from the -- it could have been</p> <p>4 indirect, somebody that talked to the business</p> <p>5 agent.</p> <p>6 Q. You respect that Mr. Dougherty</p> <p>7 and other members of the union could decide</p> <p>8 that they didn't want to support your</p> <p>9 candidacy, right?</p> <p>10 A. Uh-hum.</p> <p>11 Q. Okay. And you don't take</p> <p>12 offense by the fact that Mr. Dougherty was</p> <p>13 saying I don't think you are the guy for the</p> <p>14 executive board, did you?</p> <p>15 A. No.</p> <p>16 MS. DEBRUICKER: Objection to</p> <p>17 form.</p> <p>18 BY MR. PODRAZA:</p> <p>19 Q. And I believe today we just</p> <p>20 established that you could understand why he</p> <p>21 would feel that way, that perhaps he thought</p> <p>22 you could be inexperienced and not the right</p> <p>23 person to be on the board, correct?</p> <p>24 A. His personal opinion?</p>	<p style="text-align: right;">Page 116</p> <p>1 possible that it didn't?</p> <p>2 A. I mean, it's possible, but I</p> <p>3 just don't recall that part of the</p> <p>4 conversation.</p> <p>5 Q. All right. And then</p> <p>6 Mr. Kieffer goes on to say, "Brother McConnell</p> <p>7 said he personally made the decision not to</p> <p>8 run and does not want to file an official</p> <p>9 complaint and is not interested in pursuing</p> <p>10 any type of charges."</p> <p>11 Did you say that to</p> <p>12 Mr. Kieffer?</p> <p>13 A. I don't even remember that</p> <p>14 being an issue at the time.</p> <p>15 Q. All right. And Mr. Kieffer</p> <p>16 then continues, "Brother McConnell told me he</p> <p>17 was not a part of the complaint from Charles</p> <p>18 Battle, but apparently he just wanted to</p> <p>19 discuss the issue with someone."</p> <p>20 A. Again, I don't know -- I don't</p> <p>21 remember having any of that part of the</p> <p>22 conversation with him.</p> <p>23 Q. Did you ever say to Mr. Kieffer</p> <p>24 that I want to be part of the protest by</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Yeah.</p> <p>2 A. That would be his personal</p> <p>3 opinion.</p> <p>4 Q. Okay. Mr. Kieffer goes on to</p> <p>5 say, "Brother McConnell told me that even</p> <p>6 though there were no direct threats he felt</p> <p>7 that it would be best for him not to run for</p> <p>8 office."</p> <p>9 Is that what you told</p> <p>10 Mr. Kieffer?</p> <p>11 A. Yeah.</p> <p>12 Q. Now, if you go to the last</p> <p>13 page, Mr. Kieffer says, "I asked Brother</p> <p>14 McConnell if our conversation was an official</p> <p>15 complaint claiming intimidation of a candidate</p> <p>16 running for office."</p> <p>17 Did Mr. Kieffer say that to</p> <p>18 you?</p> <p>19 A. I don't even remember that part</p> <p>20 of the conversation.</p> <p>21 Q. All right. But it's possible?</p> <p>22 A. It's possible.</p> <p>23 Q. Okay. What I'm getting at, are</p> <p>24 you saying it absolutely didn't happen or it's</p>	<p style="text-align: right;">Page 117</p> <p>1 Mr. Battle?</p> <p>2 A. No, I didn't ever say -- I</p> <p>3 mean, I didn't even know -- I didn't even know</p> <p>4 nothing about that protest or that part of it.</p> <p>5 Q. Okay. You can put aside the</p> <p>6 Exhibit-4.</p> <p>7 How did you learn that</p> <p>8 Mr. Battle had appealed to the Federal</p> <p>9 Department of Labor?</p> <p>10 MS. DEBRUICKER: Objection.</p> <p>11 Foundation.</p> <p>12 THE WITNESS: I don't remember.</p> <p>13 I don't recall.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Do you recall speaking with</p> <p>16 Mr. Battle about it, though, before any</p> <p>17 representatives of the Department of Labor</p> <p>18 contacted you?</p> <p>19 A. I couldn't tell you when --</p> <p>20 when I talked to him about it, and I don't</p> <p>21 know if they got in touch first or he got in</p> <p>22 touch. I don't remember that.</p> <p>23 Q. Well, before you gave a</p> <p>24 statement to the Department of Labor you spoke</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 118</p> <p>1 with Mr. Battle; is that correct?</p> <p>2 MS. DEBRUICKER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: Yeah, I mean,</p> <p>5 before that -- yeah, I talked to him</p> <p>6 before that.</p> <p>7 BY MR. PODRAZA:</p> <p>8 Q. All right. And during that</p> <p>9 conversation Mr. Battle would have told you</p> <p>10 that he had filed an appeal to the Department</p> <p>11 of Labor, correct?</p> <p>12 A. Again, I'm not a hundred</p> <p>13 percent sure on when that conversations took</p> <p>14 place.</p> <p>15 Q. Well, you wouldn't have been --</p> <p>16 A. I think the Department of Labor</p> <p>17 reached out first. I want to say -- I want to</p> <p>18 say that they left me a message, a voice mail.</p> <p>19 Q. And what did they want?</p> <p>20 A. I guess just an interview to</p> <p>21 talk about what took place that day.</p> <p>22 Q. Did they explain to you why</p> <p>23 they wanted to speak to you, I mean what</p> <p>24 brought you to their attention?</p>	<p style="text-align: right;">Page 120</p> <p>1 of what happened. I got that out of,</p> <p>2 you know, the conversation I guess.</p> <p>3 BY MR. PODRAZA:</p> <p>4 Q. Well, didn't Battle at some</p> <p>5 point say to you that, you know, by supporting</p> <p>6 his claims of intimidation the DOL could take</p> <p>7 action against the union and put pressure on</p> <p>8 those union representatives under indictment</p> <p>9 or words to that effect?</p> <p>10 MS. DEBRUICKER: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: Again, I don't</p> <p>13 recall him ever saying that.</p> <p>14 BY THE WITNESS:</p> <p>15 Q. Are you saying it never was</p> <p>16 said to you or are you saying you don't</p> <p>17 recall?</p> <p>18 A. I don't recall. I don't</p> <p>19 remember.</p> <p>20 Q. Do you recall Battle mentioning</p> <p>21 to you that the criminal prosecution of the</p> <p>22 indicted officials could be helped if DOL took</p> <p>23 action against the union?</p> <p>24 A. I don't recall that</p>
<p style="text-align: right;">Page 119</p> <p>1 A. I don't remember them ever</p> <p>2 saying why. I'm guessing -- I'm guessing</p> <p>3 because Charlie made the report. You know, I</p> <p>4 guess my name came up. That's the only thing</p> <p>5 I can --</p> <p>6 Q. Did you have any -- before you</p> <p>7 gave your statement to the Department of</p> <p>8 Labor, did you have any discussions with</p> <p>9 Mr. Battle's lawyer, Clifford Haines?</p> <p>10 A. I never talked to his lawyer,</p> <p>11 ever.</p> <p>12 Q. Okay. When you did have a</p> <p>13 conversation with Mr. Battle, what was said?</p> <p>14 A. I don't remember. I don't</p> <p>15 recall that phone conversation. I talked -- I</p> <p>16 mean the one about the DOL -- or I don't</p> <p>17 really recall the conversation.</p> <p>18 Q. Well, were you left with the</p> <p>19 impression that DOL was interested in pursuing</p> <p>20 the appeal of Battle's?</p> <p>21 MS. DEBRUICKER: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: I mean, yeah,</p> <p>24 they wanted to hear -- to hear my side</p>	<p style="text-align: right;">Page 121</p> <p>1 conversation either.</p> <p>2 Q. Are you saying it never</p> <p>3 happened or are you saying you don't recall</p> <p>4 it?</p> <p>5 A. Again, I don't remember that,</p> <p>6 so from what I remember, it never happened.</p> <p>7 Q. Well, before you gave your</p> <p>8 statement to the Department of Labor, didn't</p> <p>9 you understand that if you supported Battle's</p> <p>10 appeal and DOL took action that would put</p> <p>11 pressure on -- even more pressure on the union</p> <p>12 leadership because of the indictment?</p> <p>13 MS. DEBRUICKER: Objection.</p> <p>14 THE WITNESS: I didn't really</p> <p>15 pay much attention to -- I didn't</p> <p>16 think nothing of that.</p> <p>17 BY MR. PODRAZA:</p> <p>18 Q. You didn't understand what</p> <p>19 would be possible consequences if DOL took</p> <p>20 action against the union overall? Is that</p> <p>21 your testimony?</p> <p>22 MS. DEBRUICKER: Objection.</p> <p>23 THE WITNESS: Say that again.</p> <p>24 MR. PODRAZA: Yeah, can you</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 122</p> <p>1 read that back, please?</p> <p>2 ---</p> <p>3 (The court reporter reads back</p> <p>4 the previous question.)</p> <p>5 ---</p> <p>6 THE WITNESS: I didn't expect</p> <p>7 to happen what happened.</p> <p>8 BY MR. PODRAZA:</p> <p>9 Q. What do you mean by that?</p> <p>10 A. I didn't expect any more</p> <p>11 pressure. I thought -- you know, I would have</p> <p>12 thought it was two different things.</p> <p>13 Q. You didn't think that the U.S.</p> <p>14 government through the Department of Labor</p> <p>15 going after the union and the U.S. government</p> <p>16 to the Department of Justice criminally going</p> <p>17 after officials would put more pressure?</p> <p>18 MS. DEBRUICKER: Objection to</p> <p>19 form.</p> <p>20 BY MR. PODRAZA:</p> <p>21 Q. Being connected to.</p> <p>22 A. No, I didn't.</p> <p>23 Q. Battle did though.</p> <p>24 A. I don't know.</p>	<p style="text-align: right;">Page 124</p> <p>1 form.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. -- when you were giving your</p> <p>4 statement?</p> <p>5 A. I don't know how that works,</p> <p>6 no, I don't.</p> <p>7 Q. And you didn't suspect in your</p> <p>8 mind that if I go in and give a statement that</p> <p>9 that information might be shared with other</p> <p>10 federal officials who were involved in the</p> <p>11 union affairs, whether it's criminal</p> <p>12 prosecution or otherwise?</p> <p>13 A. I wouldn't think the two were</p> <p>14 connected.</p> <p>15 Q. Now, before you gave your</p> <p>16 statement to the Department of Labor, you knew</p> <p>17 that Battle had already given his statement,</p> <p>18 correct?</p> <p>19 MS. DEBRUICKER: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: Say that again.</p> <p>22 BY MR. PODRAZA:</p> <p>23 Q. Sure. Before you gave your</p> <p>24 statement to the Department of Labor you knew</p>
<p style="text-align: right;">Page 123</p> <p>1 MS. DEBRUICKER: Objection to</p> <p>2 form.</p> <p>3 BY MR. PODRAZA:</p> <p>4 Q. Come on, didn't Battle tell you</p> <p>5 that your support of DOL would put even more</p> <p>6 pressure on the union with the criminal stuff?</p> <p>7 We'll finally get rid of Dougherty and we'll</p> <p>8 finally get rid of his cronies who are running</p> <p>9 the union -- or words to that effect.</p> <p>10 Didn't you have that</p> <p>11 conversation before you spoke with DOL?</p> <p>12 A. I didn't actually.</p> <p>13 MS. DEBRUICKER: Objection.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Never did?</p> <p>16 A. Never.</p> <p>17 Q. Never even crossed your mind?</p> <p>18 A. No.</p> <p>19 Q. Never. Okay.</p> <p>20 But you were aware that the</p> <p>21 Department of Labor was going to be sharing</p> <p>22 information with other federal officials,</p> <p>23 correct --</p> <p>24 MS. DEBRUICKER: Objection to</p>	<p style="text-align: right;">Page 125</p> <p>1 that Battle had already given a statement to</p> <p>2 the Department of Labor, correct?</p> <p>3 A. I did.</p> <p>4 Q. Okay. How did you know that?</p> <p>5 A. I think they told me.</p> <p>6 Q. Who is "they"?</p> <p>7 A. The Department of Labor when</p> <p>8 they called.</p> <p>9 Q. So what do they -- walk me</p> <p>10 through this. They call you, and what did</p> <p>11 they say to you?</p> <p>12 A. Again, I can't say exactly -- I</p> <p>13 would say somewhere along the lines it was</p> <p>14 brought to our attention by Charlie that, you</p> <p>15 know, there might have been some interference</p> <p>16 in the election, you know, could you talk</p> <p>17 about what happened.</p> <p>18 Q. So are you saying your first</p> <p>19 contact with the Department of Labor occurred</p> <p>20 after Battle had already given his statement</p> <p>21 to the Department of Labor?</p> <p>22 MS. DEBRUICKER: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: I don't remember</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 126</p> <p>1 exactly what the date was like.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. Tim, you're under oath. Are</p> <p>4 you telling me that Battle didn't call you up</p> <p>5 and say I've been -- and these are words to</p> <p>6 this effect -- I've been to the Department of</p> <p>7 Labor, I gave my statement, this is what I</p> <p>8 said, and you're next? Words to that effect.</p> <p>9 MS. DEBRUICKER: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I don't recall.</p> <p>12 I don't know who called who. I don't</p> <p>13 know who called me first.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Well, how did you end up going</p> <p>16 to the Department of Labor?</p> <p>17 A. They called me, and then, you</p> <p>18 know, I called back, and then from there --</p> <p>19 Q. And what did they say to you?</p> <p>20 A. The same thing we just talked</p> <p>21 about, how everything from text messages,</p> <p>22 letting them know I was going to run, 'til</p> <p>23 whatever, everything after that.</p> <p>24 Q. Well, did they say to you it's</p>	<p style="text-align: right;">Page 128</p> <p>1 contact with the DOL, how was that done? Was</p> <p>2 it by cell phone, them calling your cell phone</p> <p>3 or you calling somebody? How was that done?</p> <p>4 A. I mean, I think that I -- I</p> <p>5 think they left me a message on my cell phone.</p> <p>6 Q. Okay. And you returned it.</p> <p>7 Before you give a statement to the Department</p> <p>8 of Labor how many times did you have contact</p> <p>9 with representatives of DOL?</p> <p>10 MS. DEBRUICKER: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I don't recall.</p> <p>13 BY MR. PODRAZA:</p> <p>14 Q. More than twice?</p> <p>15 A. I would say more than twice.</p> <p>16 Again, not a hundred percent, but I would</p> <p>17 think it was more than that.</p> <p>18 Q. And how was that done? Was it</p> <p>19 done by telephone or in person or both?</p> <p>20 A. I would say telephone.</p> <p>21 Q. Okay. How many times did you</p> <p>22 speak with a representative from DOL before</p> <p>23 your statement was done?</p> <p>24 MS. DEBRUICKER: Objection.</p>
<p style="text-align: right;">Page 127</p> <p>1 our understanding that there were threats and</p> <p>2 intimidation to keep people from running in</p> <p>3 the election and you're one of those guys,</p> <p>4 come in and talk with us? Is that what they</p> <p>5 said to you?</p> <p>6 MS. DEBRUICKER: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: I don't remember</p> <p>9 how that conversation went. I just</p> <p>10 don't remember.</p> <p>11 BY MR. PODRAZA:</p> <p>12 Q. Well, how did they bring you</p> <p>13 in? Did they say, look, there's an issue and</p> <p>14 we'd like you to come in and, you know, come</p> <p>15 to our offices and let's talk about it?</p> <p>16 A. Would you mind, yeah, doing an</p> <p>17 interview, you know, about what happened</p> <p>18 during the Local 98 election.</p> <p>19 Q. Without telling you why?</p> <p>20 A. Again, they might have said,</p> <p>21 you know, Charlie Battle, you know, is finally</p> <p>22 complain -- don't know how it actually -- I</p> <p>23 don't know the time line.</p> <p>24 Q. Your contact -- your first</p>	<p style="text-align: right;">Page 129</p> <p>1 Counsel, do you mean the witness</p> <p>2 statement or any other?</p> <p>3 MR. PODRAZA: Yeah, his written</p> <p>4 -- well, he doesn't have a written --</p> <p>5 it's a typed statement, but the DOL</p> <p>6 statement that we're going to go over</p> <p>7 soon.</p> <p>8 THE WITNESS: I don't recall</p> <p>9 that part of it.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. More than five times?</p> <p>12 A. Again, I don't know. I really</p> <p>13 don't.</p> <p>14 Q. Why was there more than one</p> <p>15 telephone call? What's so hard about, hey,</p> <p>16 what happened at the election, what happened</p> <p>17 about your running? You talk to him and</p> <p>18 that's it. Why did they have to have several</p> <p>19 calls?</p> <p>20 MS. DEBRUICKER: Objection to</p> <p>21 form.</p> <p>22 THE WITNESS: I don't know. I</p> <p>23 don't know.</p> <p>24 BY MR. PODRAZA:</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 130</p> <p>1 Q. Was the DOL representative 2 suggesting to you that, hey, we've learned 3 this and, you know, take this into account 4 while you're thinking about what happened back 5 then? It seems like a lot of contact going on 6 there for a pretty straightforward what 7 happened to you. 8 MS. DEBRUICKER: Objection to 9 form. 10 THE WITNESS: Yeah, I don't 11 recall how many times. I just -- 12 BY MR. PODRAZA: 13 Q. Did you have to be subpoenaed 14 or did you voluntarily give a statement to 15 DOL? 16 A. I went down voluntarily. 17 Q. All right. And did you go to 18 their location? Or how was the statement put 19 together? 20 A. I went to their location. 21 MR. PODRAZA: Why don't we mark 22 then, it's McConnell-5. 23 --- 24 (Exhibit McConnell-5 was marked</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Angela -- is that Angela -- is 2 it Menges? 3 A. I think so. 4 Q. Okay. That's the person who 5 predominantly called you? 6 A. Yeah, that's who called me. 7 Q. Okay. Before we get into the 8 detail of your statement, I just wanted to -- 9 did you type this? 10 A. No. 11 Q. All right. Well, it's four 12 pages single typed. 13 Do you see that? 14 A. Yeah. 15 Q. Yeah. Did you pick the words 16 that go into this statement? 17 A. I mean, I read through it, and 18 that's why some of the stuff is changed on it. 19 Q. Yeah, I understand that. So 20 was this prepared, typed up, and then handed 21 to you and said, here, take a look at this and 22 see if it's accurate? Is that how that was 23 done? 24 A. I think I did the interview.</p>
<p style="text-align: right;">Page 131</p> <p>1 for identification.) 2 --- 3 BY MR. PODRAZA: 4 Q. All right. You'll have a 5 chance to take a look at that. 6 But before we do, these calls 7 with the Department or Labor representatives 8 before you did your statement -- 9 A. Uh-hum. 10 Q. -- you said that it was on your 11 cell; is that correct? 12 A. Yes. 13 Q. All right. Were they during 14 working hours? 15 A. I don't know. I don't -- I 16 don't know. 17 Q. Were you asked to produce any 18 documents or things of that nature? 19 A. No. I mean, maybe a couple 20 texts. I don't really recall. 21 Q. Do you remember who from DOL 22 was calling you? Was it one person, multiple 23 people? Who was it? 24 A. I think it was Angela.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Where did you do the interview? 2 A. At their office. 3 Q. Was that on October 15th, 2020, 4 or was that a different day? 5 A. I don't know. I didn't -- I 6 think I did the interview, and then I signed 7 this at a later date. 8 Q. So you did an interview -- 9 MS. DEBRUICKER: Form. 10 BY MR. PODRAZA: 11 Q. -- and then you were asked to 12 come back, and at that point were handed a 13 typed-up statement and asked to review it for 14 accuracy? 15 A. Yes. 16 Q. So nobody was sitting there 17 with a typewriter saying, okay, Tim, tell us 18 your story, and just like this court reporter 19 here right now is taking down exactly your 20 words? 21 That didn't occur with DOL, 22 correct? 23 MS. DEBRUICKER: Objection to 24 form.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 134</p> <p>1 THE WITNESS: No. There was 2 just two people taking notes. 3 BY MR. PODRAZA: 4 Q. And two people. Angela Menges? 5 I think that's how you pronounce it. 6 M-E-N-G-E-S. And who else? 7 A. I don't know who the other -- 8 the other person in the room was. 9 Q. Okay. And when they were 10 taking notes, were they taking down word for 11 word verbatim what you were saying? Like did 12 they say, whoa, Tim, slow down, I want to 13 (indicating) like the court reporter here is 14 doing? 15 A. They weren't doing that, no. 16 MS. DEBRUICKER: Objection to 17 form. 18 BY MR. PODRAZA: 19 Q. No. They were just -- but, you 20 know, some notes. 21 A. Yeah. 22 Q. And then after you leave 23 somehow this four-page, single-typed statement 24 is generated, right?</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. All right. So you didn't know 2 the attitude of the person who was drafting 3 this as to whether they were in favor of the 4 union, against the union, in favor of John 5 Dougherty, against John Dougherty, or 6 whatever, correct? 7 A. No, I didn't. Yeah, I don't 8 know who did it. 9 Q. Okay. And, you know, when you 10 were reading this, were you really careful to 11 like get down the -- you know, to make sure 12 that the words in these sentences, you know, 13 were how you would say it? Or were you more 14 focused on the accuracy of the facts? 15 A. Probably the accuracy of the 16 facts. 17 Q. And you left it, then, to the 18 DOL representative to fill in the flavor of it 19 or how it came across, correct? 20 MS. DEBRUICKER: Objection. 21 THE WITNESS: I didn't leave it 22 to nobody. I just gave a statement 23 and then read it over when -- you 24 know, after it was typed up, and</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes. 2 Q. And you have no idea how it was 3 done or who did it? 4 A. Yeah, no, I don't know who 5 wrote that. 6 Q. Except you know you didn't. 7 A. No, I didn't type it, no. 8 Q. Yeah. And, you know, can you 9 agree with me then the selection of some of 10 the words here are not your words, right? 11 MS. DEBRUICKER: Objection to 12 form. 13 THE WITNESS: I mean, yeah, not 14 word for word, no. 15 BY MR. PODRAZA: 16 Q. Okay. So the context and the 17 sense of the statement is by whoever authored 18 it, correct, not you? 19 A. Yes. 20 Q. And then it was handed to you 21 to say, here, take a look at this and tell us 22 if you, you know, find any problems with its 23 factual content, right? 24 A. Yes.</p>	<p style="text-align: right;">Page 137</p> <p>1 changed a couple things, and then that 2 was it. 3 BY MR. PODRAZA: 4 Q. All right. Well, then let's 5 flesh that out a little bit. 6 How long was your interview 7 that led to this statement being generated? 8 A. I was in there for quite 9 a while. The exact amount of time I'm not 10 sure. 11 Q. An hour? 12 A. Could be two. 13 Q. And then you leave? 14 A. Then I left. 15 Q. All right. And then at some 16 point, what, you get a call saying we typed 17 it, we want you to come in and look at it? 18 A. I don't remember. I guess, 19 yeah, I got a call, and they wanted me to go 20 over the statement. 21 Q. And you come back to DOL's 22 building? 23 A. Yes. 24 Q. All right. And same two</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 138</p> <p>1 representatives?</p> <p>2 A. There was two different</p> <p>3 buildings. I think they were moving at the</p> <p>4 time. So I don't know what building was what.</p> <p>5 Q. All right. Well, you went to</p> <p>6 their location.</p> <p>7 A. Yes.</p> <p>8 Q. All right. And are you there</p> <p>9 during the workweek or are you on your</p> <p>10 weekend, your free time?</p> <p>11 A. When I went -- when I went for</p> <p>12 the interview it was during my free time, and</p> <p>13 then when I went to sign the paperwork it was</p> <p>14 at lunch.</p> <p>15 Q. How do you define your free</p> <p>16 time? Did you go at night after work? Or did</p> <p>17 you go during work?</p> <p>18 A. No, no, no. Yeah, after work.</p> <p>19 Q. After work. So kind of like</p> <p>20 your deposition here today.</p> <p>21 A. Yes.</p> <p>22 Q. You work, and then you went</p> <p>23 over to DOL, spent, you think, about two hours</p> <p>24 talking with them?</p>	<p style="text-align: right;">Page 140</p> <p>1 A. I went up in the -- I went up,</p> <p>2 and then I went through -- you know, they give</p> <p>3 me the statement typed up, and then they said,</p> <p>4 you know, read it over, let me know if there's</p> <p>5 any changes, you know, write the changes in</p> <p>6 there.</p> <p>7 Q. Okay. Before they handed that</p> <p>8 to you -- well, is that the first time you saw</p> <p>9 the statement when you got to DOL? Was that</p> <p>10 the first time or had they sent it to you in</p> <p>11 advance to your house so you could spend time</p> <p>12 looking at and reflecting on it?</p> <p>13 A. No. That was the first time.</p> <p>14 Q. That was the first time.</p> <p>15 So you're now there. You</p> <p>16 hadn't seen the statement before it was handed</p> <p>17 to you. And what did they ask you to do?</p> <p>18 A. Read it over and make sure</p> <p>19 everything is truthful.</p> <p>20 Q. Okay.</p> <p>21 A. To what I had said I guess.</p> <p>22 Q. And you didn't spend two hours</p> <p>23 reading this, correct?</p> <p>24 MS. DEBRUICKER: Objection to</p>
<p style="text-align: right;">Page 139</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And then you leave, and</p> <p>3 they say, you know, we got the statement, come</p> <p>4 back, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And then you come back.</p> <p>7 Was this during the workweek</p> <p>8 or, again, on your free time after work hours?</p> <p>9 A. So the first time was free</p> <p>10 hours. The second time was at lunch.</p> <p>11 Q. Okay. So I'm sorry, the first</p> <p>12 time was three hours? Or free hours. I'm</p> <p>13 sorry, you said free hours.</p> <p>14 A. Yes, right.</p> <p>15 Q. And you thought it was about</p> <p>16 like two hours in time.</p> <p>17 A. I think so.</p> <p>18 Q. How long is your lunch?</p> <p>19 A. Well, I took a half a day that</p> <p>20 day.</p> <p>21 Q. Okay. So you took a half a</p> <p>22 day, you went down. And walk me through.</p> <p>23 What happens? You arrive at DOL and what</p> <p>24 happens?</p>	<p style="text-align: right;">Page 141</p> <p>1 form.</p> <p>2 THE WITNESS: No. I mean, no,</p> <p>3 I didn't spend two hours.</p> <p>4 BY MR. PODRAZA:</p> <p>5 Q. All right. So you picked it</p> <p>6 up, you read it. You were looking more</p> <p>7 towards factual accuracy. Is that what you</p> <p>8 were looking for?</p> <p>9 A. I probably read it twice and</p> <p>10 then made a couple changes, and then, yeah,</p> <p>11 that was -- I might have been there an hour.</p> <p>12 Q. At most. Maybe a half an hour?</p> <p>13 MS. DEBRUICKER: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: I don't remember</p> <p>16 to be honest with you exactly how</p> <p>17 long.</p> <p>18 BY MR. PODRAZA:</p> <p>19 Q. Okay. But when you were</p> <p>20 reading it, you were reading it for factual</p> <p>21 accuracy or the tenor of the document?</p> <p>22 A. Factual, making -- the facts,</p> <p>23 making sure the facts were right.</p> <p>24 Q. Okay. Now, after you were done</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 142</p> <p>1 reading it, making it -- it looks like some of 2 the handwritten changes on there -- then what 3 happened? 4 A. Nothing. I mean, I don't -- 5 Q. Did you leave it on the table 6 and walk out of the building or did you talk 7 to them? 8 A. No. They came back in. I 9 guess they went over what the changes were, 10 and that was it. 11 Q. Okay. If you look at the first 12 page of your statement -- I'm looking at the 13 very bottom paragraph -- it starts out, "I've 14 been thinking." 15 A. Yes. 16 Q. It says, "I had been thinking 17 of running for an executive board position for 18 about six months. I made my final decision to 19 run on June 8th, 2020, the day before the 20 nomination. I sent a text message to safety 21 director Lynch on June 8th, 2020, to let him 22 know I was going to run." 23 Well, that's not accurate, 24 correct? The text you sent to him on</p>	<p style="text-align: right;">Page 144</p> <p>1 mean, I was reading for -- 2 Q. Well, if you had actually typed 3 this statement up, wouldn't you have said I 4 sent a text saying I'm thinking of running, 5 and then at some point in your statement you 6 would have said, and later that night I sent a 7 text saying I'm not running? Because that's 8 the truth based on your text as Exhibit-1, 9 right? 10 MS. DEBRUICKER: Objection. 11 Foundation. It mischaracterizes his 12 testimony. 13 THE WITNESS: Yeah, I mean, I 14 wrote it, but I wouldn't have 15 remembered that's what I wrote. I 16 would have just probably said that I 17 was running at the time because in my 18 head that's what I was going to do. 19 BY MR. PODRAZA: 20 Q. Well, where in this statement 21 attributed to you does it say that you sent a 22 second text to Lynch on June 8th later in the 23 evening? 24 MS. DEBRUICKER: Objection.</p>
<p style="text-align: right;">Page 143</p> <p>1 June 8th -- indicating you were thinking of 2 running, not that you were actually running, 3 right? 4 MS. DEBRUICKER: Objection. 5 THE WITNESS: No. I mean, at 6 that point I was running. I was going 7 to run. 8 BY MR. PODRAZA: 9 Q. Well, take a look at your 10 Exhibit-1. You told me before that on 11 June 8th you said I'm thinking of running, and 12 then later that day on June 8th you say I'm 13 not running. 14 A. Yeah, that's what it says. 15 Q. Yeah. 16 A. But, I mean, at that point I 17 was going to run. 18 Q. But you didn't pick these 19 words, right? 20 A. Um -- 21 Q. These were written down by 22 whoever drafted this statement for you, right? 23 A. Well, yeah, I mean, obviously I 24 didn't type it up, but, I mean, again, yeah, I</p>	<p style="text-align: right;">Page 145</p> <p>1 THE WITNESS: I don't know. 2 BY MR. PODRAZA: 3 Q. Well, take your time. Go 4 through it. Show me where it is. 5 A. No, I don't see it. 6 Q. That's important information, 7 don't you think? 8 MS. DEBRUICKER: Objection. 9 THE WITNESS: Yes. 10 BY MR. PODRAZA: 11 Q. Yeah, wouldn't it be important 12 to know that I initially said I'm thinking of 13 running, and as time passed, whatever happened 14 in between, I then said, I'm not running? 15 That's something you'd want to put factually 16 in your statement to be factually accurate, 17 correct? 18 MS. DEBRUICKER: Objection. 19 THE WITNESS: Yeah, if I -- I 20 mean -- 21 BY MR. PODRAZA: 22 Q. Yeah. I mean, if you want to 23 leave a false impression that I told them I'm 24 going to run and never said I wasn't going to</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 146</p> <p>1 run, then you wouldn't make reference to your 2 text, right? 3 MS. DEBRUICKER: Objection to 4 form. 5 THE WITNESS: Yeah. 6 BY MR. PODRAZA: 7 Q. Now, if you turn to the next 8 page -- and I'm going down, let's see, one, 9 two, three, four full paragraphs down -- you 10 make some handwritten indications. Then you 11 got, "after that call" -- you make reference 12 -- this is the call that you had with 13 Mr. Dougherty on June 8th, 2020, correct -- 14 A. Uh-hum. 15 Q. -- "my phone blew up. I sat in 16 my back yard for four hours fielding nonstop 17 phone calls." 18 All right. Are you saying or 19 is that meant to try to convey that for four 20 hours you were receiving calls before you 21 decided to tell the union you weren't running? 22 A. That was -- 23 MS. DEBRUICKER: Objection to 24 form.</p>	<p style="text-align: right;">Page 148</p> <p>1 been in your backyard fielding calls, you had 2 already told Lynch well before that that you 3 weren't running. So why is that not in here? 4 MS. DEBRUICKER: Objection. 5 THE WITNESS: I don't know. 6 BY MR. PODRAZA: 7 Q. And if you turn to your last 8 page, it says there, "I talked with Ryan the 9 following morning, June 9th, 2020. Ryan said 10 to me, I guess you decided to run." 11 It doesn't say anything there 12 that -- even if you accept that, that you 13 said, no, I already told the union last night 14 I'm not running, it's not in there. 15 MS. DEBRUICKER: Objection. 16 BY MR. PODRAZA: 17 Q. Is it because of you or because 18 of the representative from the DOL didn't 19 include that? 20 MS. DEBRUICKER: Objection. 21 THE WITNESS: I don't recall. 22 BY MR. PODRAZA: 23 Q. Well, you agree with me that at 24 least indicating that on June 8, 2020, you</p>
<p style="text-align: right;">Page 147</p> <p>1 THE WITNESS: No. It was -- it 2 was after I told them I was running. 3 BY MR. PODRAZA: 4 Q. But there's no reference in 5 here saying -- okay, after you said you were 6 running, right? 7 A. Uh-hum. 8 Q. But this says "after that 9 call." So you spoke with Mr. Dougherty -- 10 A. Uh-hum. 11 Q. -- for that long call, right? 12 A. Uh-hum. 13 Q. Then it says, "my phone blew 14 up, and I sat in my backyard for four hours 15 fielding nonstop phone calls." 16 A. Yeah. 17 Q. Right? Are you saying here 18 that you sat in your backyard for four hours 19 before you then sent that text to Lynch to say 20 I'm not running? 21 A. No. That just says I was 22 answering the phone for four hours. 23 Q. Well, why doesn't it say in 24 here then that -- you know, while you may have</p>	<p style="text-align: right;">Page 149</p> <p>1 told the union you weren't running, and if 2 Ryan then called you and made that mistake, 3 you would have just said, look, it's a mistake 4 and I'm not running, correct? 5 MS. DEBRUICKER: Objection. 6 THE WITNESS: I don't remember. 7 I mean, yeah, if that's -- well, I 8 didn't talk to Jimmy -- I didn't talk 9 to Jimmy the day before, so I'm 10 betting -- or Jimmy didn't know that, 11 that I was out yet. He just -- it was 12 from the conversation I had with Brian 13 Eddis the night before. 14 BY MR. PODRAZA: 15 Q. But when speaking with Ryan, 16 even if he didn't know and accepting what 17 you're saying, you certainly told him, hey, 18 I'm out, I already told them, I gave them a 19 text, I'm out as of June 8, 2020, correct? 20 MS. DEBRUICKER: Objection. 21 Foundation. 22 THE WITNESS: Yeah. I mean, I 23 probably told him after he said that. 24 BY MR. PODRAZA:</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 150</p> <p>1 Q. But I don't see that here in 2 this statement. Don't you think that's 3 important information? 4 MS. DEBRUICKER: Objection. 5 THE WITNESS: Yeah. I mean, I 6 don't know. 7 BY MR. PODRAZA: 8 Q. Doesn't this kind of lead you 9 to believe that you're still a candidate on 10 June 9, 2020, when your text has already said 11 you're not as of June 8th, 2020? 12 MS. DEBRUICKER: Objection. 13 THE WITNESS: Yeah. I mean -- 14 BY MR. PODRAZA: 15 Q. And I'm not blaming you. I'm 16 just saying whoever prepared this statement 17 didn't seem to care about the fact that you 18 had texted Mr. Lynch, your good buddy, during 19 the night of June 8, 2020, to say I'm not 20 running. Isn't that your impression? 21 MS. DEBRUICKER: Objection to 22 form. 23 THE WITNESS: I guess. 24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 152</p> <p>1 2020, according to your testimony, and he made 2 reference to the website, and then you said 3 after the conversation with John Dougherty on 4 June 8, 2020, you even actually went to the 5 website and was disgusted by it and sent the 6 text to Mr. Lynch, correct? 7 A. It was -- no, it was probably 8 -- I don't remember when I received that text. 9 I would have to -- I don't remember the date 10 to be honest with you. 11 Q. Maybe you're not, and I'm not 12 faulting you. I'm just saying whoever wrote 13 this puts this down as June 9th, and that 14 can't be the case that that's the first time 15 you learned of the website. 16 A. I would say it was June 8th. 17 Q. Sure. This is inaccurate, is 18 what I'm getting at. And I'm not saying it's 19 your fault because you didn't write this, did 20 you? You were just asked to review it based 21 on somebody taking notes, right? 22 MS. DEBRUICKER: Objection. 23 THE WITNESS: Yeah, I guess. 24 Yeah.</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. Yeah, and it probably didn't 2 cross your mind because you were just looking 3 for what was written here, right, whether it 4 was factually accurate, right? 5 A. Yeah. I checked -- I mean, 6 that's -- I read it over and made the changes 7 I had to. 8 Q. And then I'm looking down -- if 9 you go one, two, three more full paragraphs 10 down. It starts out with "sometime between 11 lunch." 12 Do you see where that is? 13 A. Uh-hum. 14 Q. It says, "sometime between 15 lunch and the end of the day on June 9, 2020, 16 I received a text message from an unknown 17 number. I was included in a group text with 18 13 other phone numbers I did not recognize. 19 The text contained a link to the website, 20 quote, Know the Truth About Your Union.com, 21 end quote. I didn't know the site existed 22 until I received the text." 23 Well, that's not true, correct? 24 You spoke with Mr. Dougherty on June 8th,</p>	<p style="text-align: right;">Page 153</p> <p>1 BY MR. PODRAZA: 2 Q. And, in fact, when you get down 3 to the next paragraph, it says, "I sent a text 4 message to safety director Lynch." 5 That's finally the text that 6 we're talking about, right, on June 8, 2020? 7 Correct? 8 A. Yes. 9 Q. "I don't want it to be 10 personal. I'm out because I don't agree with 11 what's on that website." 12 And they actually quoted, 13 right? 14 A. I think so. 15 Q. Yeah, it's in quotation marks, 16 isn't it? 17 A. Yeah. 18 Q. Well, if you're quoting 19 something, that means they had to have 20 (indicating) the text in their possession, 21 whoever wrote this statement for you, right? 22 How else would they quote something? They had 23 to know what it said. 24 A. Yeah.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 154</p> <p>1 Q. Yeah. Well, it makes it even 2 worse. They had the text in their possession, 3 they're writing the statement, and they're 4 still ignoring the fact that on June 8, 2020, 5 at 7:33 p.m., you told the union you were not 6 running and you were out. 7 MS. DEBRUICKER: Objection. 8 BY MR. PODRAZA: 9 Q. How do you explain that? And 10 I'm not asking you to, but how does this 11 statement just ignore that? They had to have 12 it in their possession, right? 13 MS. DEBRUICKER: Objection. 14 THE WITNESS: Yeah. I mean, 15 I'm not sure. 16 BY MR. PODRAZA: 17 Q. And then it says, "after 18 Dougherty screamed at me about the website, I 19 went onto the site to see what it was about." 20 That's what you previously 21 testified. On June 8th, 2020, you checked the 22 website, right? 23 A. I did. 24 Q. And then you sent the text to</p>	<p style="text-align: right;">Page 156</p> <p>1 BY MR. PODRAZA: 2 Q. Well, they wrote the statement, 3 right? 4 A. Yes, they did, yes. 5 Q. And you just didn't catch what 6 they wrote if it was in error, correct? 7 MS. DEBRUICKER: Objection. 8 THE WITNESS: Yeah. I mean, I 9 didn't go through it. 10 BY MR. PODRAZA: 11 Q. You looked at it. 12 A. I would have never caught that 13 one day off. Yeah, I mean, I would have never 14 caught June 9th to June 8th. 15 Q. Well, that's a -- well, maybe a 16 better question is, the information in this 17 statement was already there when you were 18 asked to review it, correct? 19 A. Say that again. 20 Q. Yeah, the information, the 21 words and everything in this statement, were 22 already in the statement when it was handed to 23 you to review, right? 24 A. It was typed up, yes.</p>
<p style="text-align: right;">Page 155</p> <p>1 Mr. Lynch saying I'm out, I don't want to be 2 connected to the website, right? 3 A. That's what I said, yeah. 4 Q. What's Exhibit-1, correct? 5 A. Yep. 6 Q. Okay. Did the DOL 7 representatives when you were reviewing this 8 statement, did they provide you with a copy of 9 the text that you had sent to Mr. Lynch so you 10 could have that available to compare it to 11 your statement? 12 A. Um -- 13 Q. Or did they just hand you the 14 statement and say, you know, go through this 15 and see if it's accurate? 16 A. I don't remember. I think I 17 just went through the statement. 18 Q. Now, are the inaccuracies in 19 the statement that were reviewed here, is that 20 due to you or due to the DOL representative 21 who put the statement together? 22 MS. DEBRUICKER: Objection. 23 THE WITNESS: To be honest, I'm 24 not really sure.</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. Yes. Okay. And you didn't 2 type it up or have any involvement in the 3 typing of it, right? 4 A. No. 5 Q. As far as you know that was 6 done by DOL, right? 7 A. Yeah. 8 Q. Okay. When you had your 9 interview, did any of the representatives from 10 the Department of Labor kind of encourage how 11 you viewed the nomination proceeding? Did 12 they make any suggestions to you? 13 A. I don't really recall. 14 Q. Make any suggestions along the 15 lines of like, well, didn't you feel 16 intimidated by this, or, you know, didn't you 17 feel like there would be retaliation by that, 18 kind of suggesting these things to you? 19 MS. DEBRUICKER: Objection to 20 form. 21 THE WITNESS: I don't remember 22 yes or no. I mean, I don't know. 23 BY MR. PODRAZA: 24 Q. Well, when you did your</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 158</p> <p>1 interview for two hours, you didn't just sit 2 in a chair and just talk with them standing 3 there and just doing notes. You had a 4 conversation back and forth, right? 5 A. Yeah, I mean -- 6 Q. Yeah, they contributed to the 7 discussion, right? 8 A. Yes. 9 Q. All right. And they would ask 10 you questions, and they would try to expand on 11 what you were saying, right? 12 A. Yes. 13 Q. And they would encourage you to 14 consider different views of what happened both 15 prior to and on the day of the election, 16 right? 17 MS. DEBRUICKER: Objection. 18 THE WITNESS: Yeah. 19 BY MR. PODRAZA: 20 Q. Did you ever ask if you could 21 just do a written statement like Mr. Ryan did 22 that we've seen here today? 23 MS. DEBRUICKER: Objection. 24 THE WITNESS: No, I didn't ask.</p>	<p style="text-align: right;">Page 160</p> <p>1 statement. So is Battle's. The other ones 2 that we've seen from the Department of Labor 3 are typed impressions of the representatives 4 that people either signed or did not sign. 5 Were you aware of that? 6 MS. DEBRUICKER: Objection to 7 form. 8 THE WITNESS: I don't know. 9 No, not that I knew of. 10 BY MR. PODRAZA: 11 Q. Well, isn't it a fact that the 12 Department of Labor did say to you that we 13 want a statement because it's more formal, 14 this is more formal, and it can be used for 15 helping us in our investigation of the union 16 or words to that effect? Didn't they tell you 17 that, that that's why they wanted a statement, 18 rather than something less formal? 19 MS. DEBRUICKER: Objection to 20 form and foundation. 21 THE WITNESS: I don't remember. 22 They just said they needed me to sign 23 my statement. They didn't really give 24 a reason why.</p>
<p style="text-align: right;">Page 159</p> <p>1 BY MR. PODRAZA: 2 Q. Because, you know, we know from 3 Mr. Ryan's handwritten he wrote that. 4 A. Yeah. 5 MS. DEBRUICKER: Objection. 6 BY MR. PODRAZA: 7 Q. So there's no question those 8 are his words, right? 9 A. Yeah. 10 MS. DEBRUICKER: Objection. 11 Foundation. 12 BY MR. PODRAZA: 13 Q. Did they offer the opportunity 14 for you to handwrite? 15 A. Not that I remember. I mean, I 16 don't know if I wrote it. No, I think -- no, 17 they wrote it. 18 Q. Yeah. And they never offered 19 the opportunity for you to just put down in 20 handwriting what you understood happened so 21 you could just write it down without any 22 interference from anybody, correct? 23 A. Yes. 24 Q. All right. Now, yours is a</p>	<p style="text-align: right;">Page 161</p> <p>1 BY MR. PODRAZA: 2 Q. And within a day or two after 3 your statement and Battle's statements are 4 taken by DOL, search warrants are issued, and 5 the Spring Garden headquarters are raided. 6 I'll represent that to you. 7 Did it cross your mind that 8 there was a connection between what you were 9 doing with DOL and what Mr. Battle was doing 10 with these formal statements and the 11 government coming in again and raiding Local 12 98? 13 MS. DEBRUICKER: Objection. 14 THE WITNESS: Probably not at 15 the time of the statement. 16 BY MR. PODRAZA: 17 Q. How about now? 18 A. Probably now. 19 Q. Yeah. Why do you think that 20 way now? 21 A. I mean, I didn't realize it was 22 the day after. 23 Q. And was there pressure -- well, 24 not pressure -- but did DOL seem to really</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 162</p> <p>1 want to get you in to get this statement 2 signed or were they like, hey, well, Tim, 3 whenever you come around to it, you just pop 4 by our facilities and sign? 5 A. I don't -- I kind of -- 6 whenever I could -- I had time it seemed. 7 Like with everything, it was when I wasn't at 8 a soccer game or whatever, you know, doing the 9 stuff I do. 10 Q. Well, let me ask you this. How 11 much time passed from the time you met with 12 DOL representatives and spoke with them so 13 they could take notes to the time you came 14 back and were in the room reviewing the 15 statement? How much time passed from then to 16 then? 17 A. I don't remember. 18 Q. Days, weeks, months? 19 A. I would think it would be 20 weeks. 21 Q. Weeks? 22 A. I'm just guessing. 23 Q. So do you have a calendar? 24 A. I do.</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. And was this, the experience 2 that you had with DOL, as far as you know, was 3 that a similar experience that Charlie Battle 4 had? 5 MS. DEBRUICKER: Objection. 6 THE WITNESS: I didn't really 7 talk to Charlie too much back then, so 8 I don't really -- I mean, here and 9 there but not -- I didn't really -- 10 you know, like I said, I didn't talk 11 to him that often. 12 BY MR. PODRAZA: 13 Q. Okay. The first two pages of 14 what we've marked here as McConnell-5, it's a 15 memo or I'm going to call it a memo from 16 Angela Menges. 17 Do you see that in front of 18 you? 19 A. Uh-hum. 20 Q. And it says, "prior to signing, 21 OLMS discussed the purpose of the statement 22 with McConnell." 23 What did they tell you? 24 A. Who's OLMS?</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Do you keep your calendar on 2 your phone? 3 A. I do. 4 Q. This is dated October 15th, 5 2020. Do you have your 2020 calendar still on 6 your phone? 7 A. I don't write on my calendar 8 though. 9 Q. If the statement was signed by 10 you on October 15th, 2020, is there any way 11 you could look at anything that can give us an 12 idea as to when you were at the DOL to meet 13 with the folks and spend a couple hours 14 talking with them about it? 15 A. I mean, at home I know I kept 16 most of the stuff. Here right now I don't 17 know for sure. 18 Q. Can we follow up with you on 19 that? Would you be able to supply us with 20 that? 21 A. I probably could. 22 MR. PODRAZA: Can you just make 23 a note of that? 24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. It's the Office of Labor 2 Management Standards. Do you see at the very 3 top there? 4 A. I don't remember. 5 Q. Well, they say that they -- 6 they discussed the purpose of the statement 7 with you to advise you that the Office of 8 Labor Management Standards was conducting an 9 official investigation pursuant to the Labor 10 Act. 11 A. Uh-hum. 12 Q. All right. What did they tell 13 you was going to be the purpose of your 14 statement for their investigation and what 15 they were going to do? 16 A. I took it as -- I don't know. 17 I don't know. I don't remember. 18 Q. Okay. Now, there's a bunch of 19 -- you see that black stuff underneath the 20 first page? 21 A. Yeah. 22 Q. It goes on to the next page. 23 We don't know what that says. That's been 24 redacted.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 166</p> <p>1 Was there an impression at all</p> <p>2 ever left with you that your statement may be</p> <p>3 used by the government for purposes of</p> <p>4 investigating the union or claims against the</p> <p>5 union other than just the June 9th, 2020 --</p> <p>6 A. I just thought it was to do</p> <p>7 with the election.</p> <p>8 Q. And as you said already, seeing</p> <p>9 this now your view has kind of changed?</p> <p>10 MS. DEBRUICKER: Objection.</p> <p>11 THE WITNESS: Well, yeah. Can</p> <p>12 I use the bathroom again?</p> <p>13 MR. PODRAZA: All right. Yeah.</p> <p>14 Now would probably be a good time to</p> <p>15 take a break.</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 6:16. Going off the video record.</p> <p>18 ---</p> <p>19 (There was a brief recess in</p> <p>20 the proceeding.)</p> <p>21 ---</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 6:25. We are on the video record.</p> <p>24 BY MR. PODRAZA:</p>	<p style="text-align: right;">Page 168</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And did they leave a</p> <p>3 message or speak directly with you?</p> <p>4 A. I think I answered the phone.</p> <p>5 Q. I'm sorry?</p> <p>6 A. I think I answered the phone,</p> <p>7 so I think I spoke directly to them.</p> <p>8 Q. Okay. And it would have been</p> <p>9 your cell phone; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And do you recall, was</p> <p>12 it a workday or was it a weekend day?</p> <p>13 A. It was during work, the day --</p> <p>14 the day I was getting laid off.</p> <p>15 Q. Okay. And what was it that the</p> <p>16 agent said to you?</p> <p>17 A. I don't know exactly. It was</p> <p>18 something in reference with I guess do you</p> <p>19 think there's any reason you're getting laid</p> <p>20 off? Like is there any -- do you think -- I</p> <p>21 don't know exactly. It was something -- I</p> <p>22 don't know exactly how he asked it.</p> <p>23 Q. How did you know that they were</p> <p>24 with the FBI?</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. All right. Mr. McConnell, you</p> <p>2 said -- and correct me if I'm wrong -- that</p> <p>3 after you signed the DOL statement that we</p> <p>4 reviewed here today at some point you received</p> <p>5 a telephone call from the FBI or from somebody</p> <p>6 with the FBI?</p> <p>7 MS. DEBRUICKER: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: It was the day I</p> <p>10 got laid off, I was getting laid off</p> <p>11 in the W.</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. All right. And we have some</p> <p>14 dates here which we'll work on, and you'll see</p> <p>15 that it comes after your statement. But take</p> <p>16 that representation by me, and if I'm wrong,</p> <p>17 then you suffer no consequences on it. I</p> <p>18 suffer it.</p> <p>19 A. Uh-hum.</p> <p>20 Q. Who was the agent who called</p> <p>21 you?</p> <p>22 A. I don't know. I never talked</p> <p>23 to him.</p> <p>24 Q. It was a male, though, right?</p>	<p style="text-align: right;">Page 169</p> <p>1 A. He did tell me his name when he</p> <p>2 called. Like I just don't remember.</p> <p>3 Q. Did you -- besides that</p> <p>4 conversation did you ever meet or go down to</p> <p>5 the location for the FBI and discuss?</p> <p>6 A. No.</p> <p>7 Q. Did he ever come out and speak</p> <p>8 with you?</p> <p>9 A. No.</p> <p>10 Q. And, I'm sorry, they asked you</p> <p>11 what about being laid off?</p> <p>12 A. If I knew what the reason was</p> <p>13 for being laid off.</p> <p>14 Q. And what did you say?</p> <p>15 A. Again, I'm not sure. I mean, I</p> <p>16 said that I guess it could have went either</p> <p>17 way. I just said I thought there was a little</p> <p>18 more work here for what I was doing.</p> <p>19 Q. Well, at the W Hotel had other</p> <p>20 people gotten laid off at that same time?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So then that project was</p> <p>23 coming to an end, was it not?</p> <p>24 A. It was towards -- yes.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 170</p> <p>1 Q. Yeah. All right. And was it 2 the very day that you were being laid off that 3 you get this call from the FBI? Or how soon 4 after when you were laid off do you get the 5 call? 6 A. Again, I don't recall the 7 dates. 8 Q. Well, it was pretty close, 9 wasn't it? 10 A. It was. 11 Q. Okay. And is that information 12 that becomes instantly known and published, 13 that, oh, these guys are laid off right now? 14 A. I guess because of what was 15 going on a lot of people knew that I was 16 getting laid off. 17 Q. Charlie Battle knew? 18 A. Probably not right then, not in 19 the first couple -- maybe it was the first 20 couple days. Well, I don't really remember. 21 Q. Did the call come in after 22 Charlie Battle would have known that you were 23 laid off? 24 A. I think it was -- I want to say</p>	<p style="text-align: right;">Page 172</p> <p>1 to him right away? 2 A. I think I talked to him Friday 3 or Saturday. I got laid off -- I knew I was 4 getting laid off on a Tuesday. I know I 5 talked to him over the weekend. 6 Q. The weekend before that 7 Tuesday? 8 A. No. The weekend after. 9 Q. The weekend after. 10 A. Before I started that Monday at 11 University of Penn. 12 Q. Who else then did you speak to 13 before Charlie Battle to ask about a job? 14 A. Probably like -- I don't know, 15 eight -- I probably met the same like ten 16 people I talk to usually to see, you know, 17 what's going -- just to see where the jobs 18 are. It's not -- we just don't -- you know, 19 it's not like I was just looking for any jobs. 20 Maybe seeing where they were. It depended on 21 the contractor. 22 And then since I -- you know, I 23 didn't have anything by the weekend and I 24 already said I was going to start at Penn on</p>
<p style="text-align: right;">Page 171</p> <p>1 it was before I got laid off though because I 2 already knew I was getting laid off. 3 Q. All right. So you were given 4 notice that you were being laid off, but you 5 were still working at the time? 6 A. Yes. 7 Q. And that's when the FBI call 8 came in? 9 A. Yes, somewhere in between. 10 Q. All right. Who would have you 11 shared that you were going to be laid off 12 shortly or, you know, within a few days or 13 whatever the period was? Who would you have 14 spoken to to give them that information? 15 A. I probably made a lot of phone 16 calls. I probably made 10 to 15 phone calls 17 just looking for a job. 18 Q. Yeah. And you spoke with 19 Charlie Battle? 20 A. I didn't talk to Charlie until 21 after I got laid off. 22 Q. It's your testimony that the 23 guy that's going to get you a job within a 24 week after you were laid of, you didn't speak</p>	<p style="text-align: right;">Page 173</p> <p>1 Monday. And during the weekend I had a couple 2 more people call me for jobs, but I already 3 took that one. 4 Q. Besides what you said here with 5 the FBI agent was there any further 6 discussions? 7 A. No. It was just on the phone 8 that -- whenever that was that week. 9 Q. So nobody else from the 10 government called you about your employment 11 besides that one call? 12 A. Maybe asked me questions, maybe 13 like who's foreman. Like just -- I think I 14 was at work, so I told them I couldn't talk, 15 and then I think maybe they called me back 16 later that day or something. 17 Q. So you think there may have 18 been two calls down at the FBI? 19 A. Maybe. 20 Q. This is before the W Hotel job 21 and you had to seek other employment? 22 A. Yes. 23 Q. At some point did you advise 24 the FBI that you, in fact, had other</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 174</p> <p>1 employment?</p> <p>2 A. I don't think I knew at that</p> <p>3 time.</p> <p>4 Q. What happened in the second</p> <p>5 call?</p> <p>6 A. Well, it was later that day. I</p> <p>7 think they just asked me who the foreman was,</p> <p>8 who the business agent was, just general</p> <p>9 information. Nothing -- I mean, that -- that</p> <p>10 was it.</p> <p>11 Q. Did you ever suggest to them</p> <p>12 that you thought it was retaliation?</p> <p>13 A. I mean, I just said I don't</p> <p>14 know, I wasn't sure.</p> <p>15 Q. Had you ever suggested to</p> <p>16 anybody that the reason you no longer were</p> <p>17 working the project at W Hotel was because of</p> <p>18 retaliation?</p> <p>19 A. Same thing. Probably if they</p> <p>20 -- yeah, I said, I'm not sure. That's</p> <p>21 probably -- I believe.</p> <p>22 Q. All right. But we can agree</p> <p>23 that the W Hotel project was coming to its end</p> <p>24 and others were being laid off from that</p>	<p style="text-align: right;">Page 176</p> <p>1 didn't.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. You never made that claim that</p> <p>4 it was by retaliation or wrongful acts by the</p> <p>5 union that you weren't working at the W Hotel</p> <p>6 anymore, correct?</p> <p>7 MS. DEBRUICKER: Objection.</p> <p>8 THE WITNESS: In all honesty, I</p> <p>9 probably -- I think I -- yeah, it</p> <p>10 might have been in a prior</p> <p>11 conversation, before -- I gave a</p> <p>12 statement that most likely that's how</p> <p>13 it was going to happen.</p> <p>14 BY MR. PODRAZA:</p> <p>15 Q. Now I'm not following you. Can</p> <p>16 you explain that?</p> <p>17 A. I think if I'm not mistaken it</p> <p>18 was before -- it was a conversation I had</p> <p>19 before with maybe somebody that I said, you</p> <p>20 know, after this statement is, you know, made</p> <p>21 public I'm sure I'm probably going to get --</p> <p>22 that's probably how I put it.</p> <p>23 Q. Was this a federal employee</p> <p>24 that you were talking to or a member of Local</p>
<p style="text-align: right;">Page 175</p> <p>1 project?</p> <p>2 MS. DEBRUICKER: Objection.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. PODRAZA:</p> <p>5 Q. At that time.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Let's talk about that</p> <p>8 layoff in a little bit more detail.</p> <p>9 In an Amended Complaint that</p> <p>10 the Secretary's filed in this case, the</p> <p>11 statement said -- or a representation is made,</p> <p>12 "approximately one week after he provided the</p> <p>13 Secretary with the signed statement in</p> <p>14 connection with the investigation of Battle's</p> <p>15 allegations McConnell was laid off from his</p> <p>16 job where he had worked for approximately two</p> <p>17 years." And that's what's said.</p> <p>18 Now, am I correct that you</p> <p>19 never claimed that your employment at the W</p> <p>20 Hotel ended because of retaliation or wrongful</p> <p>21 action by the union?</p> <p>22 MS. DEBRUICKER: Objection.</p> <p>23 THE WITNESS: Again, yeah, I</p> <p>24 didn't know. I didn't -- no, I</p>	<p style="text-align: right;">Page 177</p> <p>1 98?</p> <p>2 A. I'm not sure who I said it to.</p> <p>3 Back then there was a million conversations</p> <p>4 going on.</p> <p>5 Q. Did you share it with the</p> <p>6 representatives who were taking your</p> <p>7 statement? Did you say, hey, look, I'm going</p> <p>8 to make a statement but I think I'm going to</p> <p>9 be getting fired?</p> <p>10 A. I probably did.</p> <p>11 Q. All right. And did you</p> <p>12 probably reach out to them to let them know,</p> <p>13 hey, I'm going to be laid off as of this date?</p> <p>14 MS. DEBRUICKER: Objection to</p> <p>15 form.</p> <p>16 BY MR. PODRAZA:</p> <p>17 Q. And when I mean "they," the</p> <p>18 Department of -- let's put it this way. After</p> <p>19 you signed your statement and you left and</p> <p>20 found out then you're going to no longer be at</p> <p>21 the W Hotel working, did you speak with</p> <p>22 anybody from the Department of Labor,</p> <p>23 including Angela Menges or the people who</p> <p>24 interviewed you?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 178</p> <p>1 A. I don't know when I talked to 2 them. I'm not sure. I mean, like I said, 3 a lot of people at that time knew I was 4 getting laid off. It was -- it went around 5 pretty fast. 6 Q. All right. But did you have 7 the telephone numbers for the DOL 8 representatives who took your statement? 9 A. I think she give me her card. 10 Q. Okay. And do you recall 11 calling or speaking with one of them before 12 the FBI called about the fact that you were 13 going to be laid off now as of that Tuesday? 14 A. I don't remember. I don't. 15 Q. Is it possible? 16 A. I don't think so, but, again, 17 I'm not sure. 18 Q. It's not possible that you gave 19 your statement -- well, strike that. 20 It's not possible that while 21 giving your statement you say I'm risking 22 getting laid off? 23 A. I did say that. I know I did 24 say that.</p>	<p style="text-align: right;">Page 180</p> <p>1 A. I would think so. I never 2 really checked to be honest with you. 3 Q. Would you be willing to access 4 your phone records in that period of time to 5 see if, in fact, you did call somebody at the 6 Department of Labor after you signed your 7 statement on October 15, 2020? 8 A. I don't know. I would have to 9 talk to a lawyer before I decided anything 10 like that. 11 Q. Okay. Well, I'll ask you to go 12 talk to somebody because we'd be interested in 13 seeing if, in fact, you called a DOL 14 representative after you signed your statement 15 because it just seems kind of a coincidence 16 that Battle signs a statement, you sign your 17 statement, a search warrant gets issued, you 18 have your layoff, you may have called DOL, you 19 may have not, and then FBI calls you. 20 A. Uh-hum. 21 Q. All in a pretty short period of 22 time. 23 A. Yeah. 24 Q. You know, that's a lot of</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. And you said it to the DOL 2 representatives, right? 3 A. I think so. 4 Q. And then you take a statement 5 and you sign it. 6 A. Uh-hum. 7 Q. And then after you do that, 8 you, in fact, are notified you're going to be 9 laid off? 10 A. Uh-hum. 11 Q. It's not possible that you 12 called those DOL representatives up and said, 13 hey, you know what, it happened or words to 14 that effect? 15 A. Again, I don't remember -- I 16 don't recall doing that. Me, I don't know if 17 I was talking to them at the time and it maybe 18 came up in conversation, but I don't remember 19 personally reaching out to anybody. 20 Q. Does your cell phone record or 21 store calls that you had back in 2020? 22 A. No. 23 Q. It deletes them as time goes 24 on? Is that how it works?</p>	<p style="text-align: right;">Page 181</p> <p>1 coincidences. You know, and we'd be 2 interested in seeing if, in fact, there was 3 discussions -- let's put it that way -- 4 between DOL and the FBI/DOJ. 5 So think about it, and some of 6 the other information we'll follow up with you 7 on for all of us here, and then you can let us 8 know if you'll voluntarily do it or if we have 9 to serve a subpoena. 10 A. That's fine. 11 Q. Okay. Now, we've already 12 established that at the time of your DOL 13 statement you were working at the W Hotel, 14 right? 15 A. Yes. 16 Q. All right. Let me show you 17 what we're going to mark here as McConnell-6. 18 - - - 19 (Exhibit McConnell-6 was marked 20 for identification.) 21 - - - 22 BY MR. PODRAZA: 23 Q. And for the record, what we've 24 marked here as McConnell-6 -- well, let me</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 182</p> <p>1 first ask you, have you ever seen a document 2 like this before, a printout? 3 A. No. 4 Q. This is a record of your work 5 -- 6 A. Uh-hum. 7 Q. -- through the union. 8 A. Uh-hum. 9 Q. And if you can see where job ID 10 23444 is listed. It's the W Hotel? 11 A. Uh-hum. 12 Q. And you had been there from 13 May 13, 2020, until October 19, 2020. 14 A. Uh-hum. 15 Q. And right after that you go 16 right to Penn Medicine? 17 A. Uh-huh. 18 Q. With Shaeffer Sons. You see 19 that there? 20 A. Yep. 21 Q. And you've worked continuously 22 since then, right? 23 A. Yes. 24 Q. All right. So there was no</p>	<p style="text-align: right;">Page 184</p> <p>1 A. Right. 2 Q. Okay. And you're not positive, 3 but it could be that the W Hotel, at least 4 your work, was completed, and that's what 5 accounts for why you were laid off? 6 A. Um -- my -- I mean, no. I 7 mean, I still had work on my floor, the floor 8 I was doing. 9 Q. Okay. 10 A. But it was towards the end of 11 the job. 12 Q. Right. So that means you're 13 kind of -- less and less employees are there. 14 There's some work, but less and less employees 15 are there; is that correct, as it winds down? 16 A. Yes. 17 Q. Okay. And that could be, as 18 far as you know, the reason why you were laid 19 off? 20 MS. DEBRUICKER: Objection. 21 THE WITNESS: Yeah, it could be 22 the reason. 23 BY MR. PODRAZA: 24 Q. Okay. Now, looking at your</p>
<p style="text-align: right;">Page 183</p> <p>1 claim of retaliation or even thoughts of 2 retaliation by the union from the time you 3 were at Penn Medicine going forward, correct? 4 MS. DEBRUICKER: Objection. 5 THE WITNESS: Yeah, I mean -- 6 BY MR. PODRAZA: 7 Q. Yeah, you continued to work, 8 right? 9 A. Yes. 10 Q. Okay. And the -- what, seven 11 days it was between the time of the W Hotel 12 work ended and you were at Penn Medicine 13 working? 14 A. I went there the next day. 15 Q. Really? So you were there on 16 10/20? 17 A. I went there -- I got laid off 18 on a Friday. I went there Monday. 19 Q. Okay. So these records may be 20 a little bit off is what you're saying? 21 A. Yes. 22 Q. Okay. So really there was no 23 delay between the time of the W Hotel 'til the 24 time of your next work at Penn, right?</p>	<p style="text-align: right;">Page 185</p> <p>1 employment record, I noticed that it's not 2 unusual for you to go from one job to the next 3 job, you know, with some period of time of not 4 working, is what I'm getting at. Do you see 5 that here? 6 A. Yeah. This ain't -- this ain't 7 right. I've never missed any time, so -- 8 Q. So you go from one to the next? 9 A. Yeah, these records ain't 10 correct. Yeah, I mean, I might have been a 11 couple weeks here and there. I was out with a 12 torn ACL in 2019. So the W has me there from 13 5/13 to 10/19, but I was there for almost two 14 years. Yeah, I mean, like I said, I never 15 really missed more than a week here or a 16 couple weeks here. 17 Q. All right. So even with the 18 circumstances surrounding the June 9th, 2020 19 nomination proceedings before and after you 20 never lost any work? 21 MS. DEBRUICKER: Objection. 22 THE WITNESS: No. 23 BY MR. PODRAZA: 24 Q. No, you didn't?</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 186</p> <p>1 A. No, I didn't lose any work.</p> <p>2 MR. PODRAZA: Okay. I think at</p> <p>3 this point, if I can just take a</p> <p>4 moment, I think that's all the</p> <p>5 questions I have at this time, you</p> <p>6 know, subject to yours and maybe some</p> <p>7 follow-up. So maybe if we take a</p> <p>8 break.</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 6:44. Going off the video record.</p> <p>11 - - -</p> <p>12 (There was a brief recess in</p> <p>13 the proceeding.)</p> <p>14 - - -</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 6:52. We are on the video record.</p> <p>17 This begins media unit three.</p> <p>18 BY MR. PODRAZA:</p> <p>19 Q. Mr. McConnell, you made</p> <p>20 reference that you had gone to a meeting with</p> <p>21 Mr. Borthwick, Mr. Coppinger, Mr. Battle, and</p> <p>22 yourself at Mr. Battle's house.</p> <p>23 Do you recall when that was?</p> <p>24 A. Hum. I would say it was</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Do you know if there were other</p> <p>2 meetings, though, that you didn't attend?</p> <p>3 A. I heard there was other</p> <p>4 meetings. I've personally never been to them.</p> <p>5 Q. And who, as far as you know,</p> <p>6 were at those other meetings?</p> <p>7 A. I'm not sure. I wasn't there.</p> <p>8 You know, I just --</p> <p>9 Q. Did you hear it from Mr. Battle</p> <p>10 that they had a meeting at his house?</p> <p>11 A. One of the three that were at</p> <p>12 that other meeting would know who was there.</p> <p>13 I personally was -- never went.</p> <p>14 Q. Does Mr. Battle have a drinking</p> <p>15 problem?</p> <p>16 A. I personally never seen.</p> <p>17 Q. You've never seen him</p> <p>18 incapacitated or under the influence?</p> <p>19 MS. DEBRUICKER: Objection.</p> <p>20 THE WITNESS: Not that I --</p> <p>21 like I said, I didn't really know</p> <p>22 Charlie before all this, so I don't</p> <p>23 know him.</p> <p>24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 187</p> <p>1 sometime this year.</p> <p>2 Q. Which month would you best</p> <p>3 estimate?</p> <p>4 A. The month I don't know. It was</p> <p>5 -- it had to be the spring. It was nice out</p> <p>6 from what I remember, so it was probably</p> <p>7 spring or summer. Probably spring of this</p> <p>8 year.</p> <p>9 Q. Okay. We're in the summer</p> <p>10 right now.</p> <p>11 A. April, May.</p> <p>12 Q. April, May.</p> <p>13 A. Maybe around there, yeah.</p> <p>14 Q. And what triggered having a</p> <p>15 meeting at his house?</p> <p>16 A. I don't know. I guess the --</p> <p>17 for like upcoming -- for some of the union</p> <p>18 meetings coming up, and, you know, I don't</p> <p>19 know -- yeah, I mean, nothing, just talking,</p> <p>20 see how everything's going, you know what I</p> <p>21 mean, what was going on.</p> <p>22 Q. Were there other meetings?</p> <p>23 A. I never, personally, never went</p> <p>24 to any meeting.</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Well, you were at the recent</p> <p>2 members' meeting, weren't you?</p> <p>3 A. Yes.</p> <p>4 Q. Did Mr. Battle appear to be</p> <p>5 under the influence or any behavior, a little</p> <p>6 odd behavior?</p> <p>7 A. I mean, I didn't think he was</p> <p>8 under the influence.</p> <p>9 Q. Do others express to you</p> <p>10 sometimes that their impression is that</p> <p>11 Mr. Battle might have either a drinking or</p> <p>12 other narcotic type problem?</p> <p>13 A. I know Mark Lynch said it to me</p> <p>14 before when that was first going on, but</p> <p>15 that's --</p> <p>16 Q. I'm not asking you to vouch for</p> <p>17 him. I'm just asking, have others raised with</p> <p>18 you concerns about Mr. Battle being under the</p> <p>19 influence of something?</p> <p>20 A. Not really. I mean, like I</p> <p>21 said, I don't really get into the personal</p> <p>22 stuff, you know what I mean, so I don't really</p> <p>23 know.</p> <p>24 Q. What did Mark Lynch say to you</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 190</p> <p>1 about --</p> <p>2 A. He just said that -- this was</p> <p>3 before when I heard that first night from --</p> <p>4 that maybe he was on drugs. They thought he</p> <p>5 was on drugs. Or I don't know. I don't know</p> <p>6 how exactly that conversation went. I</p> <p>7 personally don't know.</p> <p>8 Q. This is before the June 9th,</p> <p>9 2020 nomination?</p> <p>10 A. Yes.</p> <p>11 Q. Have you ever seen odd behavior</p> <p>12 by Mr. Battle?</p> <p>13 MS. DEBRUICKER: Objection.</p> <p>14 THE WITNESS: I don't know what</p> <p>15 you would say would odd be. I mean,</p> <p>16 I've been to the last meeting where</p> <p>17 him and John were arguing, I mean,</p> <p>18 yelling back and forth a little bit.</p> <p>19 I mean, that's -- again, I haven't</p> <p>20 really known the guy that long, so I</p> <p>21 don't really know personally anything.</p> <p>22 BY MR. PODRAZA:</p> <p>23 Q. Does Mr. Battle frequent</p> <p>24 Kelly's, the bar?</p>	<p style="text-align: right;">Page 192</p> <p>1 A. You got it.</p> <p>2 Q. And I'll do my best to orient</p> <p>3 you, and if my questions are at all unclear,</p> <p>4 let me know.</p> <p>5 A. Okay.</p> <p>6 Q. I want to direct your attention</p> <p>7 back to the text, which was McConnell-1. Do</p> <p>8 you have that in front of you?</p> <p>9 A. Yes. Here it is.</p> <p>10 Q. And the first of those two</p> <p>11 texts is dated 5:59 p.m.; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And it reads, you know, to</p> <p>14 Mr. Lynch, "yo, I am thinking about running</p> <p>15 for e-board."</p> <p>16 At that time had you decided to</p> <p>17 run for e-board.</p> <p>18 A. That's when I decided to run,</p> <p>19 that day.</p> <p>20 Q. Okay. And you told Mr. Lynch</p> <p>21 I'm thinking around running.</p> <p>22 Was that just to kind of float</p> <p>23 the idea by him?</p> <p>24 A. Yeah. I didn't really think</p>
<p style="text-align: right;">Page 191</p> <p>1 A. I don't know.</p> <p>2 Q. Do you drink?</p> <p>3 A. I do drink.</p> <p>4 MS. DEBRUICKER: Objection.</p> <p>5 BY MR. PODRAZA:</p> <p>6 Q. But I'm not trying to get too</p> <p>7 personal. But have you ever gone out drinking</p> <p>8 with him?</p> <p>9 A. With Charlie, no.</p> <p>10 Q. No. Okay.</p> <p>11 MR. PODRAZA: That's all I had</p> <p>12 at this time. Thank you.</p> <p>13 BY MS. DEBRUICKER:</p> <p>14 Q. Mr. McConnell, you okay to keep</p> <p>15 going, to plow through?</p> <p>16 A. Good. Let's go.</p> <p>17 Q. Mr. McConnell, I'm Lauren</p> <p>18 DeBruicker, and I'm counsel for the Secretary</p> <p>19 of Labor in this litigation. I'm going to be</p> <p>20 as quickly -- I'm going to be as quick as I</p> <p>21 can. And most of my questions are sort of</p> <p>22 follow-up, so I may bounce around a little bit</p> <p>23 in time, so bear with me. My goal is to not</p> <p>24 go over anything you already testified to.</p>	<p style="text-align: right;">Page 193</p> <p>1 that we'd be sitting here in front of lawyers</p> <p>2 a year and a half later, that's all.</p> <p>3 Q. Okay. Your text continues,</p> <p>4 "just wanted to let you know that I had</p> <p>5 nothing to do with the website, I swear on my</p> <p>6 kids"; is that right?</p> <p>7 A. Uh-hum.</p> <p>8 Q. And you wanted Mr. Lynch to</p> <p>9 know that up front?</p> <p>10 A. Yes.</p> <p>11 Q. And it's your understanding</p> <p>12 that Mr. Lynch communicated this message to</p> <p>13 Mr. Dougherty because you spoke with him very</p> <p>14 shortly afterward?</p> <p>15 A. Yes, that was the -- because he</p> <p>16 texted me on a prior text before this that my</p> <p>17 name came up with that website, and I had</p> <p>18 nothing -- you know.</p> <p>19 Q. Okay. And to the best of your</p> <p>20 recollection, about how long was it between</p> <p>21 the time you sent this text to Mr. Lynch at</p> <p>22 5:59 p.m., and when you got the call where you</p> <p>23 spoke to Mr. Dougherty?</p> <p>24 A. Within a minute or two.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 194</p> <p>1 Q. Do you recall in your 2 conversation with Mr. Dougherty that you told 3 him that you had nothing to do with the 4 website? 5 A. I did. 6 Q. What was his response? 7 A. He said that, you know, you're 8 with them, so you're a part of it. 9 Q. So despite you telling him you 10 had nothing to do with the website, did you 11 take it that he was going to associate you 12 with the website regardless of what you told 13 him? 14 A. Yes. 15 Q. Did you want anything to do 16 with the website? 17 A. No. 18 Q. Would that have been damaging 19 to your reputation in your opinion? 20 A. Yeah. I didn't want to get 21 into anything personal. It's not what I 22 wanted to do. 23 Q. And was Mr. Dougherty's 24 statement that he would affiliate you with</p>	<p style="text-align: right;">Page 196</p> <p>1 A. I did. 2 Q. Was there ever a concern that 3 something could happen to Mr. Lynch's work if 4 you didn't back out? 5 A. I don't know. I don't know how 6 -- I don't think so. I don't think -- I don't 7 think so. 8 Q. And then you texted Mr. Lynch 9 at 7:33, "yo, I'm out," correct? 10 A. Uh-hum. 11 Q. It's my understanding that the 12 meeting was the following day, correct? 13 A. Yes. 14 Q. And did you have to make a 15 decision as to whether you were in or out 16 until the time of the meeting? 17 A. I did. 18 Q. All right. I'm next going to 19 ask you to look at McConnell-5, which is the 20 memo followed by your statement. You've spent 21 a lot of time on this, so I don't want to 22 recover old ground, but I understand from your 23 testimony today that this statement was typed 24 up by someone from the Department of Labor.</p>
<p style="text-align: right;">Page 195</p> <p>1 that website regardless of what you said one 2 of the reasons why you decided not to run? 3 A. That was part of it. 4 Q. Your text continues, "just 5 think anyone should be able to run without 6 repercussions." 7 What did you mean by that? 8 A. Without worrying about, you 9 know, I guess somehow, you know, not being 10 able to get a job because of what happened. 11 You know, most unions ain't like this. They 12 have elections every three years. 13 Q. Elections where more than one 14 set of candidates runs? 15 A. Yes. 16 Q. And were you concerned about 17 just your own job if you ran? 18 A. Well, I do have family members 19 in the Local which never had anything to do 20 with it, so to me it was -- I didn't want to 21 bring them involved in something I was doing. 22 Q. Were you concerned that 23 something could happen to their job prospects 24 if you didn't back off?</p>	<p style="text-align: right;">Page 197</p> <p>1 A. Yes. 2 Q. And that they -- prior to the 3 time that you saw this statement you had given 4 an interview to the Department of Labor? 5 A. I did. 6 Q. If Department of Labor records 7 show that -- that your interview with them was 8 on August 31st of 2020, would that jive with 9 your recollection? 10 A. Probably. 11 Q. And in your review of the 12 statement did you see things that you had 13 spoken with DOL about during that interview? 14 A. That was -- that I didn't think 15 was -- 16 Q. No. My question is, when you 17 reviewed this statement, did you recognize it 18 as having been based on the interview that you 19 had? 20 A. Yes, yes. 21 Q. And you had a chance to review 22 the statement before signing, correct? 23 A. Yes. 24 Q. Were you under any time</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 198</p> <p>1 pressure during that review?</p> <p>2 A. No.</p> <p>3 Q. All right. And you were</p> <p>4 encouraged to make changes to anything that</p> <p>5 wasn't correct; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. And, in fact, you did make some</p> <p>8 changes that are noted here. Mr. Podraza took</p> <p>9 you through, you know, some of the content</p> <p>10 here, and there's a mention that, you know,</p> <p>11 maybe one of the dates had been an issue.</p> <p>12 In your review, did you find</p> <p>13 this statement factually accurate to the best</p> <p>14 of your recollection at that time?</p> <p>15 A. Yes.</p> <p>16 Q. And do you stand by this</p> <p>17 statement today?</p> <p>18 A. Yes.</p> <p>19 Q. Were you pressured by anybody</p> <p>20 in the government into signing this statement?</p> <p>21 A. No.</p> <p>22 Q. Were you pressured by anyone</p> <p>23 else to sign this statement?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 200</p> <p>1 A. Yeah.</p> <p>2 Q. And are you referring there to</p> <p>3 the second text on McConnell-1 that we looked</p> <p>4 at?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. All right. I'm going</p> <p>7 to ask you to look at McConnell-3, which is</p> <p>8 the statement from Mr. Ryan.</p> <p>9 A. Uh-hum.</p> <p>10 Q. And referencing, you know, the</p> <p>11 very bottom three lines of Mr. Ryan's</p> <p>12 statement: "I told him it's not worth the</p> <p>13 aggravation to run."</p> <p>14 Do you recall Mr. Ryan saying</p> <p>15 something to that effect to you?</p> <p>16 A. Something like that.</p> <p>17 Q. What did you understand it to</p> <p>18 mean?</p> <p>19 A. Aggravation, just this, what</p> <p>20 we're going through right now.</p> <p>21 Q. That there could be things that</p> <p>22 come of -- consequences to your running.</p> <p>23 A. Yes.</p> <p>24 Q. Negative consequences to your</p>
<p style="text-align: right;">Page 199</p> <p>1 Q. Mr. Podraza asked you about</p> <p>2 references to the texts that we just looked at</p> <p>3 from June 8th, how and whether it was referred</p> <p>4 to in your statement.</p> <p>5 Do you recall that line of</p> <p>6 questioning?</p> <p>7 A. Yes.</p> <p>8 Q. I'm going to have you look at</p> <p>9 page 3 of 4 of your statement.</p> <p>10 The first word of that page is</p> <p>11 "financially" up at the top.</p> <p>12 A. Uh-hum.</p> <p>13 Q. And I'm going to direct your</p> <p>14 attention -- one, two, three, four, five</p> <p>15 paragraphs down. It's the second to the last</p> <p>16 paragraph on the page.</p> <p>17 Do you see that?</p> <p>18 A. Yeah.</p> <p>19 Q. Which reads, "I sent a text</p> <p>20 message to safety director Lynch and told him</p> <p>21 I don't want it to be personal, and I'm out</p> <p>22 because I don't agree with what's on that</p> <p>23 website."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 201</p> <p>1 running.</p> <p>2 A. Yes.</p> <p>3 Q. His last statement, which he</p> <p>4 says he said to you is "take care of your</p> <p>5 family."</p> <p>6 Do you recall him saying</p> <p>7 something to that effect?</p> <p>8 A. Something. Yeah, I mean, yes.</p> <p>9 Q. Okay. Do you know what he</p> <p>10 meant by that?</p> <p>11 A. Probably the same thing, that I</p> <p>12 guess it personally could affect you, you</p> <p>13 working, which in turn is personal towards</p> <p>14 your family.</p> <p>15 Q. You've got four kids, right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. I'm going to ask you to</p> <p>18 look next at McConnell-4, which is the letter</p> <p>19 from Mr. Kieffer. And Mr. Podraza took you</p> <p>20 through some of the language in this letter,</p> <p>21 in particular on page 2, in the middle of the</p> <p>22 second paragraph, the third line. It begins,</p> <p>23 "Brother McConnell said business manager</p> <p>24 Dougherty did not directly threaten him not to</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 202</p> <p>1 run for office."</p> <p>2 Do you recall that line of</p> <p>3 questioning? Do you recall Mr. Podraza asking</p> <p>4 you about that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. To your recollection, did you</p> <p>7 discuss with Mr. Kieffer what a direct threat</p> <p>8 was?</p> <p>9 A. I didn't.</p> <p>10 Q. To the best of your</p> <p>11 recollection, those were his words, not yours?</p> <p>12 A. Yes.</p> <p>13 Q. Mr. Podraza asked you about</p> <p>14 that next line saying that the conversation</p> <p>15 made him, meaning you, feel funny.</p> <p>16 Do you recall using that</p> <p>17 language?</p> <p>18 A. I don't.</p> <p>19 Q. And at the bottom of the next</p> <p>20 paragraph it reads, "again, Brother McConnell</p> <p>21 said there was no direct threats but, again,</p> <p>22 made him feel uncomfortable."</p> <p>23 Do you recall using those words</p> <p>24 at all?</p>	<p style="text-align: right;">Page 204</p> <p>1 members had paid positions.</p> <p>2 Do I have that right?</p> <p>3 A. Board members, yes.</p> <p>4 Q. Or e-board members have paid</p> <p>5 positions.</p> <p>6 A. Executive board members all</p> <p>7 have paid positions.</p> <p>8 Q. Okay. And it's my</p> <p>9 understanding that the position of executive</p> <p>10 board member isn't a paid position; is that</p> <p>11 right?</p> <p>12 A. I think you get some money but</p> <p>13 not much.</p> <p>14 Q. Okay. Are you referring to</p> <p>15 other paid positions that these members have?</p> <p>16 A. They have actually, yes,</p> <p>17 appointed jobs.</p> <p>18 Q. Appointed. Who are those jobs</p> <p>19 appointed by?</p> <p>20 A. The business manager.</p> <p>21 Q. In both Mr. Kieffer's report</p> <p>22 and in your statement, there's a reference to</p> <p>23 Mr. Dougherty saying during your phone call</p> <p>24 something to the effect of it would be a long</p>
<p style="text-align: right;">Page 203</p> <p>1 A. I don't.</p> <p>2 Q. Staying on that same page, the</p> <p>3 beginning of the second paragraph, "Brother</p> <p>4 McConnell said it was about that time that he</p> <p>5 started to hear that sitting officers did not</p> <p>6 want him to run for office."</p> <p>7 Do you know what he means by</p> <p>8 that?</p> <p>9 A. "It was about that time, he</p> <p>10 said" --</p> <p>11 MR. PODRAZA: I'm sorry, where</p> <p>12 are we on this?</p> <p>13 MS. DEBRUICKER: The first line</p> <p>14 of the second paragraph on page 2.</p> <p>15 THE WITNESS: It doesn't really</p> <p>16 make much sense. I don't know what it</p> <p>17 means "when McConnell said it was</p> <p>18 about that time he started to hear</p> <p>19 that sitting officers did not want him</p> <p>20 to run for office." I don't know what</p> <p>21 that means.</p> <p>22 BY MS. DEBRUICKER:</p> <p>23 Q. Okay. To clarify your earlier</p> <p>24 testimony, I believe you said that the board</p>	<p style="text-align: right;">Page 205</p> <p>1 three years if you lose.</p> <p>2 Do you recall that?</p> <p>3 A. Yes, yes.</p> <p>4 Q. Are those the words you recall</p> <p>5 Mr. Dougherty saying to you?</p> <p>6 A. Yes.</p> <p>7 Q. What did you take that to mean?</p> <p>8 A. I guess, work-wise, and when I</p> <p>9 -- you know, when he first said it was, it was</p> <p>10 -- I was figuring he meant it would be hard to</p> <p>11 find a job.</p> <p>12 Q. Mr. Podraza mentioned that</p> <p>13 after you gave your statement to The</p> <p>14 Department of Labor -- after you signed the</p> <p>15 statement that the Department of Labor</p> <p>16 prepared, following that, you lost your job at</p> <p>17 the W Hotel.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. What's your best</p> <p>20 recollection as to about how long after it was</p> <p>21 that between when you gave your statement and</p> <p>22 you lost your job?</p> <p>23 A. I'm not really sure, but I</p> <p>24 thought they said a week. I'm not really sure</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 206</p> <p>1 though. I'm not.</p> <p>2 Q. Okay. And Mr. Podraza showed</p> <p>3 you McConnell-6, which was the one-page work</p> <p>4 record?</p> <p>5 A. Oh, yeah, yeah.</p> <p>6 Q. All right. Which indicates</p> <p>7 that your layoff date from the W Hotel was</p> <p>8 October 19th.</p> <p>9 And does that sound about right</p> <p>10 to you?</p> <p>11 A. Yes.</p> <p>12 Q. From the time that you first,</p> <p>13 you know, gave your interview to the</p> <p>14 Department of Labor until today, are there</p> <p>15 things that are different about your work</p> <p>16 life?</p> <p>17 A. Yes.</p> <p>18 Q. In what way?</p> <p>19 A. I guess, you got to pick and</p> <p>20 choose where you work. I'm trying to think.</p> <p>21 Q. What do you mean by that?</p> <p>22 A. I guess you just figure the</p> <p>23 best place to work. Or, you know, I don't</p> <p>24 know if there would be repercussions, but if</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. Has anyone from union</p> <p>2 leadership talked to you about this case?</p> <p>3 A. Not recently.</p> <p>4 Q. When's the last time you recall</p> <p>5 talking to them about it?</p> <p>6 A. Probably -- it would be before</p> <p>7 the DOL statement, somewhere in between that</p> <p>8 time.</p> <p>9 Q. Okay. Do you recall who that</p> <p>10 was?</p> <p>11 A. Well, it could have been --</p> <p>12 actually, it was probably a couple times. I</p> <p>13 guess I ran into a couple of them on the</p> <p>14 beach. I couldn't -- I mean, it was last</p> <p>15 summer, so --</p> <p>16 Q. All right. So summer of 2020?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall what they said?</p> <p>19 A. Back then it was just normal</p> <p>20 conversation. That's -- yeah, nothing out of</p> <p>21 the ordinary. Just normal conversation.</p> <p>22 Q. Has anyone from the union tried</p> <p>23 to influence your participation in this</p> <p>24 matter?</p>
<p style="text-align: right;">Page 207</p> <p>1 there was, you hid from them. Do you know</p> <p>2 what I mean? You know, not talking to as many</p> <p>3 people as you used to.</p> <p>4 Q. Are there people who you don't</p> <p>5 speak with anymore who you did before?</p> <p>6 A. Yeah, good amount.</p> <p>7 Q. But are there people who you</p> <p>8 don't socialize with anymore?</p> <p>9 A. No.</p> <p>10 Q. Has anyone from the union</p> <p>11 talked to you about this case, about the</p> <p>12 litigation arising from the complaint about</p> <p>13 the election?</p> <p>14 A. Meaning from the actual working</p> <p>15 for the union or just union members?</p> <p>16 Q. Union -- let's start with union</p> <p>17 members.</p> <p>18 Have any union members talked</p> <p>19 to you about this case?</p> <p>20 A. A ton of them, a lot of them.</p> <p>21 Q. What did they say?</p> <p>22 A. Just asked what's going on,</p> <p>23 just mainly trying to figure out how</p> <p>24 everything's going and what's going on.</p>	<p style="text-align: right;">Page 209</p> <p>1 A. I don't understand the</p> <p>2 question.</p> <p>3 Q. Has anyone from the union given</p> <p>4 you any signals about your participation in</p> <p>5 this litigation, like what you should say or</p> <p>6 what you should do?</p> <p>7 A. No, not here, no.</p> <p>8 Q. I understand you were at the</p> <p>9 August 2021 union meeting?</p> <p>10 A. Yes.</p> <p>11 Q. Was anything said to you by</p> <p>12 union leadership at that meeting?</p> <p>13 A. No.</p> <p>14 Q. Did Mr. Dougherty speak to you</p> <p>15 at that meeting?</p> <p>16 A. No.</p> <p>17 Q. Did Mr. Dougherty look directly</p> <p>18 at you during that meeting?</p> <p>19 A. Yes.</p> <p>20 Q. What kind of look was it?</p> <p>21 A. I sat -- I sat right in front</p> <p>22 of the stage, and I guess it was just looking</p> <p>23 at each other. I don't know. I guess</p> <p>24 smirking or whatever, like laughing.</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 210</p> <p>1 Q. Did he ever look directly at 2 you at a union meeting before? 3 A. I never really sat right there, 4 but, no. 5 Q. Did someone at the meeting 6 suggest the union had information on you that 7 could get you locked up? 8 A. Yes. 9 Q. Tell me about that. 10 A. Somebody said they -- they were 11 talking to John, and he had an envelope, 12 anybody that was going to ask a question, and 13 then whatever he had -- I don't know what he 14 had, but whatever he had it was about each 15 person. 16 Q. Was the implication that if 17 somebody spoke up he would have dirt on them? 18 A. That's what was told. And 19 nobody said it to me. They said it through 20 somebody else. 21 Q. So you got wind of it? 22 A. Yes. 23 Q. What did you understand that to 24 mean?</p>	<p style="text-align: right;">Page 212</p> <p>1 A. I know he ran for DA. I forget 2 his name. 3 Q. Did you expect to see either 4 one of them here today? 5 A. No. 6 Q. Did their presence here 7 influence your testimony here today? 8 A. No. 9 MS. DEBRUICKER: That's all the 10 questions I have. 11 BY MR. PODRAZA: 12 Q. Mr. McConnell, I'd just like to 13 follow up a little about the files and the 14 union members' recent meeting that 15 Mr. Dougherty you said had. 16 Did you know what was in those 17 files? 18 A. That somebody said that he said 19 that it was something that could get me locked 20 up. 21 Q. And I hope that -- this is just 22 -- Mr. Dougherty didn't say that, right? 23 A. I don't know. He didn't say 24 anything.</p>
<p style="text-align: right;">Page 211</p> <p>1 A. I don't know what to take from 2 it. I didn't know -- I guess -- I don't know. 3 I didn't know what to think of it. 4 Q. Did you have a sense as to what 5 other people took that to mean? 6 A. Other people seemed like it was 7 -- if you stood up and, you know, made too 8 much of a stink that whatever was going to 9 come out in the meeting. 10 Q. If someone said something that 11 leadership didn't like that there would be 12 consequences to it? 13 A. Yes. 14 Q. Do you recognize the person 15 sitting to your right? 16 A. Yes, John Dougherty. 17 Q. Who is that? 18 A. John Dougherty. 19 Q. Do you recognize the person 20 sitting to his right? 21 A. I just know it's one of the 22 lawyers. 23 Q. So you may not recognize him 24 specifically?</p>	<p style="text-align: right;">Page 213</p> <p>1 Q. If I told you that what was in 2 the files was if an issue came up so that he 3 could have reference to show people and 4 respond to the question -- 5 A. I couldn't tell you either way. 6 Q. Okay. And you didn't take that 7 as a threat, did you? 8 MS. DEBRUICKER: Objection to 9 form. 10 THE WITNESS: I don't know what 11 -- I didn't know that to be true. 12 Yeah, no. 13 BY MR. PODRAZA: 14 Q. All right. Did Mr. Dougherty 15 refer to anything in those files while you 16 were at the meeting to embarrass you or 17 intimidate you or anything along those lines? 18 A. He didn't. 19 Q. Okay. And if I told you within 20 those files was, again, just material that he 21 could make reference to if questions came up 22 so that he could be accurate in his response, 23 would that change your -- would that be 24 different than what you heard from that person</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 214</p> <p>1 about information of a criminal nature on your 2 part? 3 MS. DEBRUICKER: Objection to 4 form. 5 THE WITNESS: Yeah, I don't 6 know. Like I said, that was just 7 hearsay that I heard, and I didn't 8 personally hear it, so -- 9 BY MR. PODRAZA: 10 Q. Now, when you -- your good 11 friend, Mr. Lynch, when you sent him those 12 texts, in those texts you made no reference to 13 anyone, including Mr. Dougherty, saying, you 14 know, if you lose, it'll be a long three 15 years, correct? 16 A. In the text messages? 17 Q. Yeah. 18 A. He used Mark Lynch's phone. 19 Mark Lynch was standing right next to him. 20 Q. I'm just saying, when you 21 texted Mr. Lynch -- 22 A. Yeah, I didn't, no. 23 Q. -- there's no reference in 24 there about anybody saying, whoa, whoa, whoa,</p>	<p style="text-align: right;">Page 216</p> <p>1 campaign? 2 A. No. He said he'll campaign 3 24/7. 4 Q. Yeah, yeah. So he thought that 5 his ticket would win even if you decided to 6 run. That was your impression, right, whether 7 it was right or wrong. 8 A. Yeah, that was his impression. 9 MS. DEBRUICKER: Objection. 10 Mischaracterizes his testimony. 11 BY MR. PODRAZA: 12 Q. Okay. Let's not 13 mischaracterize it. 14 I just want to be clear that 15 when you're talking to Mr. Dougherty, your 16 impression was that he didn't really take any 17 campaign by you serious enough that you would 18 win against his ticket. 19 MS. DEBRUICKER: Objection. 20 THE WITNESS: I mean, serious 21 enough to where -- I mean, yeah, I 22 don't know. I don't know. I didn't 23 get that from that conversation. 24 BY MR. PODRAZA:</p>
<p style="text-align: right;">Page 215</p> <p>1 you know, I'm here, and it could be a long 2 three years if I run and I lose? There's no 3 reference to that, right? 4 MS. DEBRUICKER: Objection. 5 THE WITNESS: Not in the text 6 message to Mark Lynch, no. 7 BY MR. PODRAZA: 8 Q. Okay. Well, did you separately 9 say to Mr. Lynch in a phone call or any other 10 manner that, you know, Mr. Dougherty's 11 threatened me with work not being available if 12 I run and I lose? 13 A. No. 14 Q. And wouldn't it be fair to say 15 that whether it's true or not, from 16 Mr. Dougherty's vantage point, he didn't think 17 that you could win even if you did run? 18 Wouldn't that be fair to say your impression 19 was that Mr. Dougherty didn't think that you 20 were going to be a competitive candidate 21 anyway? 22 A. In the phone conversation he 23 said I'll campaign 24/7. 24 Q. You could go ahead and</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. You thought in speaking with 2 Mr. Dougherty he thought that you could win 3 and beat one of the members that would be part 4 of his ticket? 5 A. I mean, I don't understand why 6 he'd have to campaign 24/7. That's what he 7 said on the phone. 8 Q. Well, he said to you even if I 9 had to campaign 24/7 we're going to do that 10 because we're going to beat you even if you 11 decide to run. 12 Wasn't that what he was saying 13 to you? 14 MS. DEBRUICKER: Objection. 15 Mischaracterizes his testimony. 16 BY MR. PODRAZA: 17 Q. Well, was that what he was 18 conveying to you? 19 MS. DEBRUICKER: Objection. 20 THE WITNESS: That he thought 21 he could win? 22 MR. PODRAZA: Yeah. 23 THE WITNESS: Yeah. 24 BY MR. PODRAZA:</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 218</p> <p>1 Q. All right. So when you're 2 speaking to him whether you thought he could 3 win or not is a different issue. 4 I'm asking you, the impression 5 that Mr. Dougherty gave to you was that his 6 ticket was going to win whether you decided 7 not to run or if you decided to run. That's 8 the impression he left with you, right? 9 MS. DEBRUICKER: Objection. 10 THE WITNESS: Again, I don't -- 11 I mean, I don't know. I don't -- I 12 don't -- I didn't take it from that. 13 BY MR. PODRAZA: 14 Q. Well, what did you take? You 15 thought that Mr. Dougherty seriously thought 16 that if you ran you would beat one of the 17 incumbents or the other individuals who are 18 officers or had been officers of the union or 19 presently were, had financing that they could 20 back in a campaign that you didn't have, 21 participated in union activities in advance, 22 which you didn't do, and had a platform that 23 they had raised the union's rates by \$10.50 24 over three years, had kept healthcare costs</p>	<p style="text-align: right;">Page 220</p> <p>1 I have. 2 THE VIDEOGRAPHER: Any further 3 questions. 4 MS. DEBRUICKER: One more. 5 BY MS. DEBRUICKER: 6 Q. Why do you think Mr. Dougherty 7 tried so hard to get you not to run? 8 A. I don't think he wants anybody 9 -- I don't think he wanted anybody running. 10 That's all. I just -- I don't think it was 11 any one person. It was just in general. 12 Q. He wants no opposition? 13 A. No. 14 Q. Doesn't matter who it is? 15 A. Doesn't matter who it was. 16 BY MR. PODRAZA: 17 Q. Well, I guess now I have to 18 follow up with that. 19 If you ran, that would make 20 then the Dougherty team ticket have to spend 21 money, have to spend money on publications 22 going out to the membership, have to go forth 23 on a foregone conclusion that they're going to 24 win, but it would come at great cost and</p>
<p style="text-align: right;">Page 219</p> <p>1 stable so it didn't cost the members more and 2 they had a great healthcare program -- oh, and 3 work was steady. You thought that you were 4 going to beat those guys? 5 Now, you may have, but do you 6 really think with those factors that 7 Mr. Dougherty was thinking that you were 8 really going to beat them? 9 MS. DEBRUICKER: Objection to 10 form, foundation, and the preamble. 11 THE WITNESS: I don't know what 12 he was thinking. 13 MS. DEBRUICKER: And asked and 14 answered. 15 BY MR. PODRAZA: 16 Q. Okay. But with those factors 17 being taken into account, knowing 18 Mr. Dougherty, did you really think that he 19 thought you were a serious candidate against 20 his ticket? 21 A. (No verbal response). 22 MS. DEBRUICKER: Objection. 23 Asked and answered. 24 MR. PODRAZA: Okay. That's all</p>	<p style="text-align: right;">Page 221</p> <p>1 expense to them, and they want to avoid it. 2 Did that ever cross your mind 3 that perhaps that was a reason why he was 4 encouraging you to not create that problem? 5 MS. DEBRUICKER: Objection. 6 THE WITNESS: Maybe, but it's 7 not how a union's ran. 8 BY MR. PODRAZA: 9 Q. Let me ask you something. Do 10 you deny that in thinking about running for 11 the union that, you, Mr. Coppinger, 12 Mr. Battle, were just trying to needle 13 Mr. Dougherty and the union leadership, and 14 never really intending to follow through on 15 it, but you thought that you'd get a reaction 16 out of these guys because they would have to 17 then go through all of the motions of putting 18 money out, getting literature, campaigning, 19 and taking time away from union business? 20 MS. DEBRUICKER: Objection to 21 form. 22 THE WITNESS: I never had a 23 problem with the Dougherty team or 24 anybody on -- I never had a problem</p>

TIMOTHY MCCONNELL

<p style="text-align: right;">Page 222</p> <p>1 with the union ever.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. So you endorsed the Dougherty</p> <p>4 team?</p> <p>5 MS. DEBRUICKER: Objection.</p> <p>6 THE WITNESS: Before?</p> <p>7 MR. PODRAZA: Yeah.</p> <p>8 THE WITNESS: Yeah, before I</p> <p>9 have.</p> <p>10 BY MR. PODRAZA:</p> <p>11 Q. Yeah. And that's the same team</p> <p>12 that was running on 2020 in the Dougherty</p> <p>13 ticket except for one guy, right?</p> <p>14 A. You're right.</p> <p>15 MS. DEBRUICKER: Objection.</p> <p>16 BY MR. PODRAZA:</p> <p>17 Q. Yeah. If they were good enough</p> <p>18 in 2017 --</p> <p>19 MS. DEBRUICKER: Objection.</p> <p>20 THE WITNESS: Things happened</p> <p>21 between '17 and '20.</p> <p>22 BY MR. PODRAZA:</p> <p>23 Q. What, the indictment?</p> <p>24 A. That's one of the things.</p>	<p style="text-align: right;">Page 224</p> <p>1 Asked and answered.</p> <p>2 BY MR. PODRAZA:</p> <p>3 Q. They're all pretty solid</p> <p>4 things, right? That's what you want on your</p> <p>5 executive board and out of your officers from</p> <p>6 the union, wouldn't you?</p> <p>7 MS. DEBRUICKER: Objection.</p> <p>8 THE WITNESS: Yeah. I'm not</p> <p>9 arguing about it, but, yeah, all them</p> <p>10 things were true.</p> <p>11 BY MR. PODRAZA:</p> <p>12 Q. And are you happy with the</p> <p>13 individuals who are in office right now and</p> <p>14 how they're running the union?</p> <p>15 MS. DEBRUICKER: Objection.</p> <p>16 THE WITNESS: I don't know. I</p> <p>17 don't know how to --</p> <p>18 BY MR. PODRAZA:</p> <p>19 Q. Well, have you complained to</p> <p>20 leadership about anything that's going on with</p> <p>21 the union right now?</p> <p>22 A. Who am I going to complain to?</p> <p>23 Q. I'm asking you, have you made</p> <p>24 any effort to complain or raise -- you go to a</p>
<p style="text-align: right;">Page 223</p> <p>1 Q. Okay.</p> <p>2 A. Benefits for wives are another</p> <p>3 one.</p> <p>4 Q. All right. Well, that was a</p> <p>5 personal one for you, right?</p> <p>6 A. That's not just personal.</p> <p>7 A lot --</p> <p>8 Q. But that's one thing that was</p> <p>9 personal?</p> <p>10 A. That change affects a lot of</p> <p>11 people.</p> <p>12 Q. Right. But you had better</p> <p>13 wages, correct?</p> <p>14 A. Uh-huh.</p> <p>15 Q. You had stabilized costs that</p> <p>16 they weren't increased for your benefits,</p> <p>17 right?</p> <p>18 MS. DEBRUICKER: Objection.</p> <p>19 Asked and answered.</p> <p>20 THE WITNESS: Uh-hum.</p> <p>21 BY MR. PODRAZA:</p> <p>22 Q. You had steady employment?</p> <p>23 A. Uh-hum.</p> <p>24 MS. DEBRUICKER: Objection.</p>	<p style="text-align: right;">Page 225</p> <p>1 membership meeting. Did anybody have a gag in</p> <p>2 your mouth and keep you from speaking up?</p> <p>3 MS. DEBRUICKER: Objection.</p> <p>4 Argumentative. Counsel, let's wrap</p> <p>5 this up.</p> <p>6 BY MR. PODRAZA:</p> <p>7 Q. So I'm missing something here</p> <p>8 that -- these officers are acceptable, your</p> <p>9 campaign's nonviable --</p> <p>10 MS. DEBRUICKER: Objection.</p> <p>11 Asked and answered.</p> <p>12 BY MR. PODRAZA:</p> <p>13 Q. -- and it seems as though three</p> <p>14 guys just decided to try to needle the union</p> <p>15 management because some representatives are</p> <p>16 under an indictment with the government.</p> <p>17 Is that the thrust of your</p> <p>18 whole point, is to needle the management</p> <p>19 because of the indictment and see if you can</p> <p>20 get a rise out of the leaders of the union?</p> <p>21 MS. DEBRUICKER: Objection to</p> <p>22 form. Asked and answered.</p> <p>23 THE WITNESS: I never had a</p> <p>24 problem with them.</p>

TIMOTHY MCCONNELL

Page 226

1 BY MR. PODRAZA:

2 Q. You never had a problem with --

3 A. With the Dougherty team.

4 MR. PODRAZA: Okay. Thanks.

5 THE VIDEOGRAPHER: Are there
6 any further questions?

7 MS. DEBRUICKER: No.

8 THE VIDEOGRAPHER: The time is
9 7:30. We are going off the video
10 record. This concludes today's
11 testimony of Timothy McConnell.

12 ---

13 (Witness excused.)

14 ---

15 (Videotaped deposition
16 concluded at 7:30 p.m.)

17 ---

18

19

20

21

22

23

24

Page 227

C E R T I F I C A T I O N

1

2 I do hereby certify that I am a Notary
3 Public in good standing, that the aforesaid
4 proceeding was taken by me stenographically
5 pursuant to notice at the time indicated; that the
6 proceeding was correctly recorded in machine
7 shorthand by me and thereafter transcribed under my
8 supervision with computer-aided transcription; that
9 the aforesaid is a true and correct record of the
10 proceeding; and that I am neither of counsel nor
11 kin to any party in said action, nor interested in
12 the outcome thereof.

13

14 WITNESS my hand and official seal this
15 24th day of August, 2021.

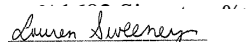
16

17

18

19

20



Notary Public

21

22

23

24

58 (Pages 226 - 227)

Ex. L

Eugene Scalia, DOL v. Local 98, IBEW, 9/24/2021

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARTIN J. WALSH, SECRETARY	:	Civil Action No. 21-0096
OF LABOR,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
LOCAL 98, INTERNATIONAL	:	
BROTHERHOOD OF ELECTRICAL	:	
WORKERS,	:	
	:	
Defendant.	:	

- - -

Friday, September 24, 2021

- - -

VIDEOTAPED DEPOSITION of MICHAEL
COPPINGER, taken pursuant to Notice, held at
Dranoff & Patrizio, P.C., 1500 John F. Kennedy
Boulevard, Philadelphia, Pennsylvania, commencing
at 4:38 p.m., before Taneha Carroll, Court
Reporter - Notary Public there being present.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

A P P E A R A N C E S:

U.S. DEPARTMENT OF JUSTICE, UNITED STATES
ATTORNEY'S OFFICE

BY: LAUREN DeBRUICKER, ESQUIRE
615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106
(215)861-8492
Lauren.DeBruicker@usdoj.gov

Representing the Plaintiff

LAMB McERLANE, P.C.

BY: JOSEPH R. PODRAZA, JR., ESQUIRE
One South Broad Street
Suite 1500
Philadelphia, Pennsylvania 19107
(215)609-3170
jpodraza@lambmcerlane.com

Representing Defendant

DRANOFF & PATRIZIO, P.C.

BY: STEPHEN P. PATRIZIO, ESQUIRE
2 Penn Center
1500 John F. Kennedy Boulevard, Suite 1205
Philadelphia, Pennsylvania 19102
(215)569-2121
spatrizio@dpesq.com

Representing Michael Coppinger

ALSO PRESENT:

Sirod Denny, Videographer

1

I N D E X

2

3

WITNESS

PAGE

4

MICHAEL COPPINGER

5

(Witness Sworn.)

4

6

7

EXAMINATION:

8

By: Ms. DeBruicker

6, 113

9

10

By: Mr. Podraza

110

11

- - -

12

E X H I B I T S

13

14

NUMBER

DESCRIPTION

PAGE

15

M.Coppinger-1

Subpoena for
Deposition

11

16

M.Coppinger-2

Mr. Borthwick's Signed
Statement

37

17

18

M.Coppinger-3

Declaration of Ed
Coppinger

73

19

M.Coppinger-4

Mr. McConnell's Signed
Statement

93

20

21

M.Coppinger-5

Mr. Battle's Signed
Statement

100

22

M.Coppinger-6

Letter of Assent

111

23

(Exhibits Retained by Attorney)

24

P R O C E E D I N G S

- - -

THE VIDEOGRAPHER: This is
Media No. 1, the Videotaped
Deposition of Michael Coppinger in
the matter of Martin J. Walsh,
Secretary of Labor, Plaintiff v.
Local 98, International Brotherhood
of Electrical Workers, Defendant,
being heard before the United States
District Court for the Eastern
District of Pennsylvania, Civil
Action No. 21-0096.

This deposition is being
held at the Law Office of Dranoff &
Patrizio, P.C. at 1500 JFK Boulevard,
2 Penn Center, Suite 1205,
Philadelphia, Pa 19102. Today's date
is September 24, 2021, and the time
on the record is 4:38 p.m. My name
is Sirod Denny. I'm the
videographer. The court reporter is
Taneha Carroll.

1 introduce yourself and affiliations,
2 and then the witness will be sworn.

3 MS. DeBRUICKER: Lauren
4 DeBruicker, Assistant United States
5 Attorney for the Secretary of Labor.

6 MR. PODRAZA: And Joe
7 Podraza on behalf of the Defendant
8 IBEW Local 98.

9 MR. PATRIZIO: Stephen
10 Patrizio here on behalf of Michael
11 Coppinger.

12 THE VIDEOGRAPHER: Will the
13 court reporter please swear in the
14 witness.

15 - - -

16 ...MICHAEL COPPINGER,
17 having been duly sworn, was examined
18 and testified as follows:

19 - - -

20 THE COURT REPORTER: Usual
21 stipulations?

22 MR. PODRAZA: Yes.

23 MS. DeBRUICKER: Anything
24 except objection to the form will be

1 reserved for trial.

2 MR. PODRAZA: That's
3 correct. Counsel, do you want the
4 witness to read and sign?

5 MR. PATRIZIO: Yes.

6 THE WITNESS: What do you
7 want me to do?

8 MR. PODRAZA: Nothing right
9 now.

10 - - -

11 EXAMINATION

12 - - -

13 BY MS. DeBRUICKER:

14 Q. With that, let me get started.
15 Mr. Coppinger, we met briefly off the record.
16 My name is Lauren DeBruicker. Thank --

17 A. Nice to meet you.

18 Q. -- you for coming in today. We
19 appreciate it. As I mentioned, I'm an
20 attorney for the Secretary of Labor in a
21 lawsuit that the Secretary has filed against
22 Local 98. The Secretary alleges that Local 98
23 violated federal union laws by pressuring
24 members out of running for office and

1 pressuring members out of supporting other
2 members running for office in its June 2020
3 Officer Election, so that's why we're here
4 today.

5 A. Okay.

6 Q. Have you ever had your deposition
7 taken before?

8 A. No.

9 Q. So it's mostly a question-and-answer
10 session. I'll ask you questions and you'll
11 give answers. When I'm finished, your counsel
12 and Mr. Podraza will have a chance to ask you
13 questions as well. Okay?

14 A. Okay.

15 Q. You've been put under oath, so it's
16 the same oath that you would take if you were
17 on the witness stand in court. Do you
18 understand that?

19 A. Yes.

20 Q. There's a videographer who will
21 record everything and we have a court reporter
22 who will write down everything that we say.
23 Okay?

24 A. Okay.

1 Q. Because it's hard to write down what
2 two people are saying at the same time, it's
3 important that we take turns in speaking.

4 A. Okay.

5 Q. Even if you're listening to my
6 question and you know where I'm going with it
7 and you know what your answer's going to be --

8 A. I'll wait.

9 Q. It's important to wait and let me
10 finish, and then I'll let you finish your
11 answer before I ask my next question. Okay?

12 A. Okay.

13 Q. I'll do my best to do that.

14 A. All right.

15 Q. If you don't understand any questions
16 that I ask you, will you let me know?

17 A. Yes.

18 Q. I want to be sure that you're clear
19 on the question before you give me an answer.
20 Okay?

21 A. Okay.

22 Q. If at any point you don't hear me
23 clearly, will you let me know?

24 A. Yes.

1 Q. I want to be sure again that you hear
2 me clearly before you answer. And towards the
3 end of the day, my voice does tend to drop so
4 I won't be offended if you say, can you say
5 that again or can you speak up. Okay?

6 A. Okay.

7 Q. Are you here with a lawyer today?

8 A. Yes.

9 Q. Who is your lawyer?

10 A. Steve Patrizio.

11 Q. Is he sitting here next to me?

12 A. Yes, ma'am.

13 Q. Did you do anything to prepare for
14 today's deposition?

15 A. Showed up, sat with him before,
16 talking sports.

17 Q. Did you meet with Mr. Patrizio at all
18 any time other than today?

19 A. Yes, earlier this week.

20 Q. Did you meet with anyone else to
21 prepare for this deposition?

22 A. My wife.

23 Q. Did you talk with her about it?

24 A. Yes, when I'm nervous.

1 Q. Did you look at any documents to
2 prepare for today?

3 A. Look at, no.

4 Q. When you met with Mr. Patrizio, was
5 anyone else there or was it just you and him?

6 A. Just me and him.

7 Q. Did anyone from Local 98 contact you
8 about your deposition today?

9 A. No.

10 Q. Is there any reason why you wouldn't
11 be able to give complete and truthful
12 testimony today?

13 A. No.

14 Q. Not distracted by personal issues?

15 A. Everybody's distracted by personal
16 issues, work, kids, you name it.

17 Q. Are you taking any medications that
18 would affect your ability to recall facts
19 accurately?

20 A. Zoloft. It's an anxiety medicine.

21 Q. Does that impact your memory at all?

22 A. They say it can sometimes.

23 Q. Have you ever experienced that?

24 A. Yeah.

1 Q. Anything else that would impact your
2 ability to recall facts accurately or give me
3 truthful answers today?

4 A. No.

5 Q. I'm going to show you what we'll mark
6 as --

7 MS. DeBRUICKER: We should
8 probably mark this as M.Coppinger-1.
9 I'm going to hand it to the court
10 reporter and then she's going to give
11 it to you.

12 THE WITNESS: Okay.

13 (Exhibit marked
14 M.Coppinger-1 for identification.)

15 BY MS. DeBRUICKER:

16 Q. I won't ask you to read the whole
17 thing, Mr. Coppinger, but I'll ask you to take
18 a look at the front of that and see if that's
19 something you've seen before.

20 MS. DeBRUICKER: And I'll
21 identify for the record it's a
22 subpoena for your deposition
23 testimony today.

24 THE WITNESS: No, I haven't

1 seen this before.

2 BY MS. DeBRUICKER:

3 Q. Did you look for any documents?

4 A. Did I look for?

5 Q. Let me ask a better question. About
6 midway down that document that I gave you,
7 there's a checkbox that says production. Do
8 you see that?

9 A. Yes.

10 Q. Which reads you or your
11 representatives must also bring with you to
12 the deposition the following documents -- and
13 I'll skip ahead for the interest of time --
14 and it reads a few lines down, All records
15 including phone records and emails from the
16 time period of June 2, 2020 to June 12, 2020.
17 Do you see where I'm reading?

18 A. Yes.

19 Q. Which constitute or reflect any
20 communications between you and -- and then the
21 first listed is Ed Coppinger. Do you see
22 that?

23 A. Yes.

24 Q. Did you look for any documents like

1 that before today?

2 A. I don't have any documents and I
3 don't email. I don't know how to email. My
4 wife does all that.

5 Q. Does the same go for the second line
6 there, Anyone regarding Local 98's June 2020
7 Election of Officers?

8 A. I don't really talk to any of them.

9 Q. Did you look on your phone to see if
10 there was record of calls?

11 A. I did look on my phone, but there's
12 nothing between -- there might be a record,
13 but it's so old, you know, 15 months ago.
14 Probably not there.

15 Q. What cell phone service do you use?

16 A. I think AT&T. Is there AT&T still?
17 I don't know. My wife handles all that. I'm
18 sorry. You probably should have her in here
19 though.

20 Q. Can you give us your cell phone
21 number? I'll represent that I won't contact
22 you directly.

23 A. 215-593-8586.

24 Q. You can sit that down. I don't have

1 any more questions about that. Thanks.

2 Are you a member of Local 98?

3 A. Yes, ma'am.

4 Q. How long have you been a member --

5 A. 28 years. Sorry. I jumped in.

6 Q. It's good practice. Do you have any
7 family members who are also members of Local
8 98?

9 A. Yes, ma'am.

10 Q. Who is that?

11 A. I have I think there's 25 of us, yes.

12 Q. And then the line of 25, do you know
13 who is first?

14 A. My grandfather came home from World
15 War II and him and all his brothers got in, so
16 they were the original six.

17 MR. PATRIZIO: Could you
18 speak up?

19 THE WITNESS: Yes. Sorry.

20 BY MS. DeBRUICKER:

21 Q. So in the line of 25, where do you
22 think you fall in terms of if your grandfather
23 was among the first?

24 A. I don't know. I don't know where I

1 fall.

2 Q. Have any of your family members held
3 office in the union before?

4 A. Yes.

5 Q. Who?

6 A. Eddie Coppinger was a business agent.
7 Joe Coppinger was on the Board of Trustees,
8 and I think my cousin Mark was a union
9 delegate.

10 Q. You said Ed Coppinger was a business
11 agent. Do I have that right?

12 A. Yes.

13 Q. What is a business agent?

14 A. They take care of jobs coming in,
15 send people out to work, the day-to-day
16 operations of the union.

17 Q. Do you know about what time period he
18 served in that role?

19 A. He's retired now, so I think -- I
20 don't know. He probably retired in 2015
21 maybe, around there.

22 Q. And you mentioned Mark Coppinger?

23 A. Yes.

24 Q. What position does he hold again?

1 A. Years ago I believe he was a union
2 delegate before my time. He's passed now.

3 Q. I'm going to turn the topic to the
4 June 2020 Officers Election the Local 98 held.

5 At any point in time, did you
6 consider running for office in Local 98's June
7 2020 election?

8 A. I thought about it.

9 Q. At some point, did you decide to seek
10 that office?

11 A. No.

12 Q. Describe for me your thought process
13 when you say you thought about it.

14 A. At the time, I was thinking about
15 running for office. A lot of my friends on
16 the job and all said I should run, but I had a
17 lot of medical issues at the time and things
18 going on with the family, so I decided not to.

19 Q. Can you give me a sense of the time
20 period when you were thinking about running?

21 A. Probably a few months before the
22 election, up to maybe a month before the
23 election.

24 Q. Was there a position you were

1 considering running for?

2 A. I was thinking maybe E Board.

3 Q. Do I understand that correctly to be
4 Executive Board?

5 A. Yes.

6 Q. You mentioned a few reasons why you
7 decided not to seek office?

8 A. Yes.

9 Q. Is there any other reason that you
10 decided not to seek office?

11 A. No.

12 Q. Was there anything in particular that
13 prompted you not to seek office?

14 A. Just my health reasons.

15 Q. I don't want to get too much into
16 your personal business, but can you give me a
17 general description of what that is?

18 A. I had two diabetic ulcers on my feet.
19 I had a tumor near my spine that had to be
20 removed. I had high anxiety over them two
21 issues, three issues. So it kind of takes
22 you -- when it comes up medical, you know what
23 I mean, like nothing else really matters, you
24 know what I mean, so.

1 Q. Did you talk to anybody about your
2 consideration of running for office?

3 A. Probably guys on the job, day-to-day
4 talk.

5 Q. Anyone you recall specifically?

6 A. In the beginning, no.

7 Q. And at some other point?

8 A. I did talk to Charlie Battle about
9 it.

10 Q. About when did you talk to him about
11 it, do you recall?

12 A. Maybe a few weeks before the
13 election -- or the nominations, I'm sorry. It
14 wasn't the election.

15 Q. Understood. And what was the nature
16 of your conversations with Mr. Battle?

17 A. Bouncing ideas off of each other.
18 Asking what we would do different, stuff like
19 that.

20 Q. Did you have an understanding that
21 Mr. Battle was thinking about running?

22 A. Later on, yes.

23 Q. About when did you have that
24 understanding?

1 A. Maybe a week to 10 days before the
2 nominations.

3 Q. Then how did you learn about that?

4 A. I think he told me.

5 Q. Was this a conversation you had in
6 person or over the phone?

7 A. Probably over the phone. With three
8 kids, I don't -- I'm running to field hockey,
9 soccer, hockey, you name it.

10 Q. Did your consideration of seeking
11 office have any relationship to Mr. Battle or
12 his decision to run?

13 A. No, no.

14 Q. Did Mr. Battle's decision to run for
15 office affect whether you did or not?

16 A. No.

17 Q. Are you familiar with a gentleman
18 named Timothy McConnell?

19 A. I think I might have talked to him
20 two or three times.

21 Q. I'll ask you about that in a little
22 bit. We've heard testimony that Mr. McConnell
23 was considering running. Did your decision
24 whether to run or not have any relationship to

1 whether Mr. McConnell was also running?

2 A. Not really. I didn't know him. But
3 when he decided not to run, my mind was
4 already made up.

5 Q. How did you learn that he had decided
6 not to run?

7 A. I don't know if somebody on the job
8 told me or he might have tol -- I think he
9 might have told me.

10 Q. Do you know about when that was?

11 A. Probably a couple of days before the
12 nominations.

13 Q. Do you recall specifically?

14 A. No, sorry.

15 Q. Would that be another conversation
16 that happened over the phone?

17 A. Yes.

18 Q. Did you have an understanding as to
19 how to seek nomination at the June 2020
20 nomination meeting?

21 A. Yeah, you have to go down and fill
22 out a paper.

23 Q. Anything else you needed to do?

24 A. You don't have to, but it's good

1 sometimes if somebody nominates you.

2 Q. Why is it good if somebody does that?

3 A. I don't know. That's just how they
4 always do it. You're better off not
5 nominating yourself.

6 Q. Why is that?

7 A. It seems like you're doing, you know
8 what I mean, you're out for you, you know what
9 I mean. It's better if somebody nominates
10 you.

11 Q. When you were considering running,
12 did you have a plan as to who might nominate
13 you?

14 A. No, never got that far.

15 Q. Do you know if a seconder, if
16 someone's to second the nomination would be
17 required?

18 A. I don't know. I don't even know if
19 the first person is required. You could
20 probably nominate yourself.

21 Q. Did you have any plans in connection
22 with the June 2020 election to nominate anyone
23 for office?

24 A. I didn't have any plans, but I know

1 Charlie wanted me to nominate him.

2 Q. How do you know that?

3 A. He had asked me to nominate him.

4 Q. When did he ask you to do that?

5 A. I think the day before or the day of.

6 Q. How did he ask? Was it a phone call

7 or --

8 A. Yeah, it was a phone call.

9 Q. Did he say what he was running for?

10 A. I believe he wanted to run for
11 president.

12 Q. What was your response to him?

13 A. In the beginning I was like lukewarm,
14 I was like okay, you know. But I wasn't -- if
15 I wasn't running, I wasn't too keen on
16 nominating anybody else, you know what I mean.

17 Q. At any point, did you give him any
18 indication that you would nominate him?

19 A. Yeah, after a few phone calls.

20 Q. And then I take it at some point you
21 decided not to nominate him?

22 A. Yes.

23 Q. We'll talk about that more later.

24 A. Okay.

1 Q. How did you know Mr. Battle?

2 A. Just through work.

3 Q. You've been on job sites together?

4 A. One or two.

5 Q. Were you currently on a job site with
6 him at that time?

7 A. No.

8 Q. And when you were going to nominate
9 him, what did you understand was necessary to
10 do that?

11 A. I think I had to go down and sign a
12 paper. I think that was it.

13 Q. When you say go down, go down where?

14 A. The union hall.

15 Q. What was that understanding based on,
16 your understanding of what you had to do to
17 nominate somebody?

18 A. A phone call I had with him.

19 Q. Help me understand this as closely in
20 time as you can when you decided not to seek
21 nomination for yourself?

22 A. Like I said, probably a month before
23 the election or the nominations.

24 Q. And at some point, did you change

1 your mind about nominating Mr. Battle?

2 A. Yes.

3 Q. When did you make that decision?

4 A. Probably the day of.

5 Q. The day of the nominations meeting?

6 A. Yes.

7 Q. Why did you make that decision?

8 A. Like I said, I have health reasons.

9 I have -- I didn't want to get caught up in
10 anything so.

11 Q. So I'm clear, did your health reasons
12 prevent you from nominating Mr. Battle?

13 A. No. But with the cuts on both my
14 feet just going to a meeting was a problem.

15 Q. And I think you also said you didn't
16 want to get caught up in anything; do I have
17 that right?

18 A. Yes.

19 Q. What do you mean by that?

20 A. It seemed like rumors that fly around
21 the Local, it was back and forth going on. I
22 didn't need that in my life at the time.

23 Q. What kind of rumors were going back
24 and forth?

1 A. Probably just, you know, who was
2 running, who didn't want, you know, just
3 hearsay. You don't pay much attention to it.
4 There's three ways new travels, telephone,
5 telegraph and tele-electrician.

6 Q. At any point, did you tell Mr. Battle
7 that you were going to seek office?

8 A. Maybe like a month before nominations
9 I told him I was thinking about it.

10 Q. What do you recall was the substance
11 of that conversation?

12 A. I believe it was just a phone
13 conversation. He just asked me where my head
14 was at the time and that was it, you know. I
15 thought maybe run.

16 Q. I may have asked you this, but I just
17 want to be clear. Did Mr. Battle's decision
18 to run for office affect your decision to run
19 for office?

20 A. No.

21 Q. And at some point, did you tell
22 Mr. Battle that you were not going to run for
23 office?

24 A. Yes.

1 Q. When did you tell him that?

2 A. Like I said, probably two weeks
3 before.

4 Q. Was that a phone conversation?

5 A. Yes.

6 Q. What was the substance of that
7 conversation?

8 A. I just told him what was going on.
9 That I wasn't -- that I didn't, you know,
10 health reasons, personal reasons, I didn't
11 want to run anymore. I think he probably
12 wanted me to still run.

13 Q. Why did you think that?

14 A. Because he said I want you to still
15 run.

16 Q. Did he say why?

17 A. No.

18 Q. So you told Mr. Battle that you were
19 not running?

20 A. Yes.

21 Q. But I understand you did tell him you
22 would nominate him, correct?

23 A. Yes.

24 Q. Tell me the substance of that

1 conversation.

2 A. He asked me to -- I think he texted
3 me and asked me to nominate him. Then we
4 talked on the phone. I explained I would
5 nominate him, but you know. I said there
6 would be other people there who you want them
7 to nominate you, you know what I mean.
8 Because like I said, I can't really help you
9 with everything that was going on with me.
10 You might wanted somebody to nominate you that
11 would help you with your campaign. I can't do
12 that.

13 Q. Why couldn't you help him with his
14 campaign?

15 A. Health reasons with the tumor and
16 all.

17 Q. Prior to the June 2020 nominations
18 process, did you know Timothy McConnell?

19 A. No.

20 Q. Did you come to know him during that
21 process?

22 A. No.

23 Q. At some point, were you introduced to
24 him during that process?

1 A. Over the phone.

2 Q. How were you connected with him?

3 A. We both work for Local 98. I didn't
4 really know him before or after.

5 Q. How did you come to speak with him by
6 phone? Did someone put the two of you in
7 touch?

8 A. Charlie said he was going to have Tim
9 call me.

10 Q. Did you understand why he said that?

11 A. I believe Timmy was probably on the
12 fence of what he wanted to do too. So he
13 probably wanted to call me and see where my
14 thinking was.

15 Q. At any point, did you find out that
16 Mr. McConnell was running for office?

17 A. I don't think he did. I didn't hear
18 that he went down and filled out any paperwork
19 or anything to run.

20 Q. At any point, did you hear that he
21 had decided to run for office?

22 A. No. He actually called me and said
23 that he decided not to.

24 Q. When was that?

1 A. A few days before nominations.

2 Q. Did Mr. McConnell's decision --
3 excuse me. Did Mr. McConnell's decision to
4 run for office affect yours?

5 A. No.

6 Q. At some point, did you tell
7 Mr. McConnell that you were thinking about
8 running for office?

9 A. After I had already decided not to.

10 Q. You had already made up your mind?

11 A. Yes.

12 Q. Tell me what you did tell him.

13 A. I told him I was thinking about
14 running, but I chose not to for health
15 reasons.

16 Q. Do you recall how that conversation
17 went?

18 A. I believe he said he decided not to
19 run either.

20 Q. At some point, did you tell
21 Mr. McConnell that you were not running?

22 A. During that phone conversation.

23 Q. During that same conversation?

24 A. Yup.

1 Q. Did you tell him why you weren't
2 running?

3 A. I said health reasons.

4 Q. Were you contacted by anyone else
5 about your consideration of running?

6 A. No.

7 Q. Do you recall telling Mr. McConnell
8 that you had been taking a nap before he
9 called?

10 A. I probably was, yeah.

11 Q. Do you recall telling Mr. McConnell
12 that you woke up to about 50 phone calls on
13 your phone?

14 A. Probably, yeah.

15 Q. Why would you have gotten 50 phone
16 calls?

17 A. Like I said, electricians are like
18 girls, grade school girls. They want to know
19 everything that's going on. They want to know
20 who's running, what's going on, you know.

21 Q. So why would you have gotten those
22 calls?

23 A. I know a lot of people and a lot of
24 people were speculating whether I was going to

1 run or not.

2 Q. Do you recall who those calls were
3 from?

4 A. No. It was 15 months ago.

5 MR. PATRIZIO: He's a
6 modest guy. He's very popular.

7 MS. DeBRUICKER: So I hear.

8 BY MS. DeBRUICKER:

9 Q. Did any Local 98 business agents
10 contact you during that time?

11 A. No.

12 Q. Do you recall telling Mr. McConnell
13 that you weren't running for office because it
14 wasn't worth it?

15 A. No.

16 Q. Did Mr. McConnell tell you that he
17 had received calls from people about the
18 election?

19 A. I believe he did.

20 Q. What do you recall of what he told
21 you?

22 A. He said him and somebody got into an
23 argument and he wasn't running anymore or
24 something. He didn't say who it was. He

1 didn't say -- he just -- there was an argument
2 and he decided not to run.

3 Q. Is it your understanding that that
4 argument is what made him decide not to run?

5 A. Well, he said there was a lot of
6 things that made him not run, but that was
7 just one factor.

8 Q. Did he mention anything else?

9 A. I don't really remember what was
10 said.

11 Q. Are you aware of anything else that
12 made him not run?

13 A. No.

14 Q. So did Mr. McConnell tell you that he
15 spoke with Mr. Dougherty?

16 A. He said somebody at the hall. I
17 don't know if he said the name.

18 Q. What else did Mr. McConnell tell you
19 about that conversation?

20 A. I don't know. The conversation
21 really wasn't that long.

22 Q. Your conversation with McConnell
23 wasn't that long?

24 A. No. I think like I said we only

1 talked three times.

2 Q. I just want to make sure. When you
3 say the conversation wasn't that long, I want
4 to make sure I understand which conversation
5 you're talking about?

6 A. When I was talking to him that night,
7 the conversation really wasn't that long.

8 Q. Your conversation with Mr. McConnell
9 that night wasn't that long?

10 A. Yes.

11 Q. Did learning about the conversation
12 that Mr. McConnell described to you that he
13 had with someone at the hall, did that have
14 any effect on you --

15 A. No.

16 Q. -- and your decision to run?

17 A. No.

18 Q. Did that have any effect on your
19 decision to nominate anyone?

20 A. No.

21 Q. Did Mr. McConnell mention that he was
22 contacted by a Local 98 business agent?

23 A. That night in the conversation he
24 said he talked to somebody at the hall.

1 Q. So that could be a business agent?

2 A. Yeah, it could be anybody.

3 Q. Do you have any information as to who
4 that was?

5 A. No.

6 Q. Did Mr. McConnell mention speaking
7 with Rodney Walker?

8 A. Not that I know of, no.

9 Q. Did you draw any connection between
10 the calls that you received that night and the
11 calls Mr. McConnell received?

12 A. No. Like I said, that's just like
13 they're a bunch of schoolgirls. You can't
14 take, you know, any of that -- stock in any of
15 that, you know.

16 Q. Do you have reason to believe that
17 your decision whether or not to run for office
18 had an impact on Mr. McConnell's decision
19 whether or not to run for office?

20 A. I don't think so.

21 Q. Are you familiar with a gentleman
22 named Philip Borthwick?

23 A. Yes.

24 Q. Did you have any --

1 MR. PATRIZIO: Philip who?

2 MS. DeBRUICKER: Borthwick,

3 B-o-r-t-h-w-i-c-k.

4 BY MS. DeBRUICKER:

5 Q. At any point, did you tell

6 Mr. Borthwick that you were considering

7 running?

8 A. Yeah, a month before the election

9 probably.

10 Q. Why did you tell him you were

11 consider running?

12 A. I had a problem with the health care.

13 Q. A problem with Local 98's health

14 care?

15 A. Yes.

16 Q. What was the issue?

17 A. They were trying to knock wives and

18 children off the health care.

19 Q. And what do you recall you told

20 Mr. Borthwick about your intention to run?

21 A. Just that I was thinking about

22 running. That was it really.

23 Q. Do you recall what his response was?

24 A. Yeah. He said I should.

1 Q. Why did he think you should as far as
2 you know of?

3 A. I know a lot of people in the Local.
4 My family's been around a long time so.

5 Q. Did Mr. Borthwick think you could
6 make a difference?

7 A. He did.

8 Q. Did you think you could make a
9 difference?

10 A. I did.

11 Q. At some point, did you tell
12 Mr. Borthwick that you were not running for
13 office?

14 A. Yes.

15 Q. When was that?

16 A. When I told Charlie. I let everybody
17 know that two weeks before the election -- the
18 nominations. I'm sorry. I keep saying that.

19 Q. I do that sometimes. And how did you
20 tell Mr. Borthwick that you were not running?

21 A. I said, Phil, I'm not running, I
22 decided not to run. He said, why? I said, I
23 got too many problems going on with my health
24 right now.

1 Q. Was that an inperson conversation?

2 A. I believe it was over the phone, I
3 believe.

4 Q. Did you tell him any other reason why
5 you were not running?

6 A. Probably said I don't need the
7 headache.

8 Q. What would the headache be?

9 A. Just be pressure all around, you
10 know, who's going to cheer you on, who's not
11 going to cheer you on, you know. I didn't
12 need that in my life.

13 Q. Tell me more about what you mean by
14 who's going to cheer you on and who's not
15 going to cheer you on?

16 A. Well, if you're going to decide to
17 run, you're going to have to have a campaign.
18 With health issues, I can't do a campaign at
19 the time.

20 Q. Now, I'm going to show you what we're
21 going to mark as M.Coppinger-2.

22 A. Okay.

23 (Exhibit marked
24 M.Coppinger-2 for identification.)

1 BY MS. DeBRUICKER:

2 Q. I'm not going to ask you to read the
3 whole thing. I'll give you a second to look
4 at it, and then I'll direct your attention to
5 a couple of specific items.

6 Mr. Coppinger, I'll represent to
7 you that this is a signed statement from
8 Mr. Borthwick that he gave to the Department
9 of Labor as the Department of Labor was
10 investigating Local 98's elections. I'll ask
11 you some specific questions. But first of
12 all, just look at the last page for me real
13 quick. And I will show you there's some
14 signatures there, and I'll represent that that
15 was the signature that Mr. Borthwick put on
16 the document.

17 A. Okay.

18 Q. And just above that in the
19 typed-written language it says, I declare
20 under penalty of perjury that the foregoing
21 statement consisting of three pages is truly
22 correct. Do you see that?

23 A. Yes.

24 Q. I'm going to direct your attention to

1 the first page of the statement where it says
2 statement at the top.

3 A. Yes.

4 Q. And I'm going to direct your
5 attention to the third paragraph that's
6 highlighted in yellow that begins, I was
7 trying to keep Battle. Do you see that?

8 A. Yes.

9 Q. It reads, I was trying to keep Battle
10 and McConnell a secret but eventually I
11 decided to connect them to each other.

12 Did you have an understanding as
13 to whether Mr. Borthwick connected Mr. Battle
14 and Mr. McConnell?

15 A. I don't know.

16 Q. Did Mr. Borthwick connect you with
17 either Mr. Battle or Mr. McConnell?

18 A. He had said, you know, Charlie wanted
19 to talk to me.

20 Q. That same paragraph continues, when
21 Battle appeared to be moving ahead with his
22 plans to run for office, I said to him,
23 Mike's -- why don't you guys talk to each
24 other. Do you see that?

1 A. Mm-hmm.

2 Q. Do you understand Mr. Borthwick to be
3 referring to you?

4 A. Yeah, probably.

5 Q. And at some point, had you told
6 Mr. Borthwick that you were in?

7 A. Probably. Like I said, when I was
8 thinking about running a month before.

9 Q. I'm going to jump down to the bottom
10 paragraph of that page. And again, focusing
11 on the yellow where Mr. Borthwick states, I
12 thought --

13 MR. PODRAZA: Let me object
14 to that, counsel. This is a
15 statement that was written by the
16 agents of the Department of Labor.
17 These are not the words of
18 Mr. Borthwick. And we already know
19 this, he was interviewed, the agents
20 put this thing together and then they
21 gave it to him and he signs it.

22 This is not Borthwick like
23 we're doing here today, so I don't
24 want you to be misled this is

1 Borthwick's words. And we've already
2 established that there's a lot of
3 inaccuracies between Mr. Battle's
4 testimony and what was in his
5 statement and also what Mr. McConnell
6 said and what was in his statement.
7 So this is not gospel truth is what
8 I'm trying to say to you.

9 THE WITNESS: Right.

10 MR. PODRAZA: And I don't
11 want you to misrepresent to him that
12 this is Mr. Borthwick sitting down
13 here typing this thing out and saying
14 this is, you know, gospel. Okay?

15 THE WITNESS: Okay.

16 MS. DeBRUICKER: Are you
17 done?

18 MR. PODRAZA: I am.

19 BY MS. DeBRUICKER:

20 Q. It's indicated here that
21 Mr. Borthwick thought he was also --

22 MR. PATRIZIO: Where are
23 you, Lauren?

24 MS. DeBRUICKER: Bottom --

1 THE WITNESS: Bottom

2 paragraph.

3 MS. DeBRUICKER: --

4 paragraph beginning of the yellow --

5 MR. PATRIZIO: Thanks,

6 Mike.

7 THE WITNESS: Yes --

8 MR. PATRIZIO: But stop.

9 I'm asking her to direct me. I don't
10 need your help. She's going to help
11 me.

12 THE WITNESS: Sorry.

13 MR. PATRIZIO: All right.

14 Wait for the question. Okay?

15 THE WITNESS: Okay.

16 MS. DeBRUICKER: He's

17 better at this than I am so --

18 MR. PATRIZIO: He probably

19 is, but I want to understand where
20 you're going.

21 MS. DeBRUICKER: Sure. At
22 the bottom paragraph at the beginning
23 of the yellow.

24 MR. PATRIZIO: Okay.

1 BY MS. DeBRUICKER:

2 Q. Which reads I thought Coppinger was
3 also going to run for an executive board
4 position. Do you see that?

5 A. Yes, I do.

6 Q. And do you remember speaking with
7 Mr. Borthwick about that?

8 A. Yes, I do.

9 Q. It continues, Coppinger was the key
10 because he and Battle have great reputations.
11 Do you see that?

12 A. Yes.

13 Q. Do you have a great reputation?

14 A. Yes.

15 Q. Everyone thought if Coppinger runs,
16 that's the game changer. Do you see that?

17 A. Yes.

18 Q. Was that your understanding?

19 A. No.

20 Q. Did you have an indication that other
21 people thought that?

22 A. Yes.

23 Q. Who thought that as far as you know?

24 A. Charlie, Phil, half the, you know, a

1 lot of people.

2 Q. Did people tell you that?

3 A. Yes.

4 Q. Do you know why they thought that?

5 A. I know a lot of people in the Local,

6 and a lot of people for some reason like me.

7 Q. He continues, Coppinger is a great
8 guy and is very funny. If anyone scares the
9 union the most, it's him because he's so well
10 liked. He comes with votes. Do you see that?

11 A. Yes.

12 Q. Did people tell you that?

13 A. Yes.

14 Q. It continues, he was the biggest one
15 they wanted to shut down because of the votes.
16 Do you see that?

17 A. Yes.

18 Q. Did you have an understanding that
19 anyone would want to shut down your nomination
20 if you were to seek it?

21 A. No -- sorry, no.

22 Q. You can set that aside. I don't have
23 any more questions about it right now.

24 A. I'm sorry. Okay.

1 Q. The night of the nominations

2 meeting --

3 A. Yes.

4 Q. -- did you go to the union hall?

5 A. I did.

6 Q. Who did you see when you were there?

7 A. I came late. I remember that because
8 I had to get my feet wrapped because of the
9 ulcers on them, and I seen all the officers of
10 the hall. I seen -- Phil was there, just my
11 friends. That's it really.

12 Q. When you say you came late, do you
13 have a sense about what time it was that you
14 came?

15 A. I was probably there maybe like 20
16 minutes after the nominations had started.

17 Q. Do you know what time the nominations
18 started?

19 A. The nominations probably started at
20 7:00.

21 Q. And did you know the nominations were
22 under way by the time you got there?

23 A. Yeah.

24 Q. How did you know?

1 A. I seen Phil. And he said, they
2 started the nominations.

3 Q. Tell me about your conversation with
4 Mr. Borthwick.

5 A. When I got there or he might have
6 called me before I even got there. He said,
7 where you at? I said, I'm on my way.

8 Q. Why would he have called you and
9 asked you where you are?

10 A. I don't know.

11 Q. Was he expecting you to be there?

12 A. Probably.

13 Q. At some point, did you have another
14 conversation with Mr. Borthwick after he
15 called to see where you were at?

16 A. When I got there.

17 Q. Tell me about the conversation you
18 had with Mr. Borthwick after you got to the
19 union hall?

20 A. What I can remember, I said hey,
21 what's going on. We talked for a minute. I
22 was saying hello to everybody. And then I
23 said, well, where's Charlie? He said, he left
24 already.

1 Q. By Charlie, do you mean Mr. Battle?

2 A. Yes.

3 Q. Why were you asking where Mr. Battle
4 was?

5 A. Well, that's where all the buzz was,
6 Charlie. He had told me that he wanted to
7 run. So I said like, what's going on, where
8 is he, is he running, what's happening? And
9 he said, no, he left already.

10 Q. When you came to the union hall that
11 night, was it your intention to nominate
12 Mr. Battle?

13 A. No.

14 Q. So by that time, you had decided not
15 to nominate Mr. Battle; is that right?

16 A. Yes.

17 Q. Were Mr. Battle aware that you were
18 not going to nominate him that night?

19 A. I believe -- I believe so, yes. I
20 don't know how -- maybe Phil told him. I
21 don't know. I know he knew because he
22 obviously wasn't there.

23 Q. Did you ever tell Mr. Battle that you
24 would not nominate him?

1 A. I called him the day off, but he
2 never answered the phone.

3 Q. So I take it at some point Mr. Battle
4 learned that you were not going to nominate
5 him?

6 A. Probably from Phil.

7 Q. Did you tell Phil that you were not
8 going to nominate Mr. Battle?

9 A. Yes.

10 Q. When did you tell Phil that?

11 A. Either the day of or the day before.

12 Q. Was that an inperson conversation or
13 by the phone?

14 A. That was on the phone.

15 Q. Bear with me. I don't want to ask
16 anything I don't need to ask?

17 A. Yeah, take your time.

18 Q. And I should say at any point you
19 want to take a break or get some water, please
20 let me know.

21 A. No, I'm good. Thank you.

22 Q. I'm going to turn you back to --
23 you're already there. You're ahead of me --
24 the document that Mr. Borthwick signed, and

1 before we were looking at the page that had
2 the word statement at the top.

3 A. You want to go back to that page?

4 Q. That and I'm going to have you turn
5 to the next page, which will be the second
6 page of the statement which has a little
7 number at the bottom that ends in 415?

8 A. Yup.

9 Q. This statement reads, I stayed on the
10 grounds of the union hall until about 7:30 or
11 8:00 p.m. I was waiting for Coppinger to
12 arrive, as it was still up in the air what guy
13 is going in to get nominated. Do you see
14 that?

15 A. Mm-hmm.

16 Q. Does that sort of jive with the
17 timing that you've described to me?

18 A. I guess.

19 Q. Did you understand that Mr. Borthwick
20 was waiting for you at the union hall?

21 A. Yeah. Like I said, I had talked to
22 him.

23 Q. The statement continues, I knew at
24 that point McConnell was not coming. Do you

1 see that?

2 A. Yes.

3 Q. Did you have any understanding before
4 the meeting that Mr. McConnell would not be
5 coming?

6 A. No. Like I said, I really didn't
7 have a lot of contact with him.

8 Q. The statement continues, Coppinger
9 showed up minutes before the meeting started.
10 Do you see that?

11 A. Yup.

12 Q. It's your testimony you arrived after
13 the meeting was under way?

14 A. After nominations. The nominations
15 start before the meeting, so the nominations
16 probably started at 7:00 and the meeting
17 starts at 8:00.

18 Q. The statement continues, Battle was
19 really counting on Coppinger to nominate him?
20 Do you see that?

21 A. Where are we at?

22 Q. We're at the second paragraph on the
23 page that we're looking at kind of in the
24 middle of the yellow --

1 A. Yes, I got you.

2 Q. Battle was really counting on
3 Coppinger to nominate him. Do you see that?

4 A. Mm-hmm.

5 Q. Did you know Mr. Battle was counting
6 on you to nominate him?

7 A. I know up to the day of they were
8 still asking me.

9 Q. It continues, If there's anyone they
10 couldn't shake, it would be Coppinger.

11 Coppinger knows everyone. When Coppinger
12 showed up, he called McConnell and told him
13 I'm out. Do you see that?

14 A. Mm-hmm.

15 Q. Did you call Mr. McConnell when you
16 arrived at the union hall?

17 A. I don't remember calling Timmy.

18 Q. But at some point, you did tell
19 Mr. Coppinger that you weren't running -- I
20 mean, sorry --

21 A. I never told --

22 Q. Let me ask a better question because
23 I messed up. At some point, you had told
24 Mr. McConnell that you weren't running?

1 A. I believe Phil and Charlie probably
2 told him. I told him the one time we talked,
3 like I said, that I wasn't running I think it
4 was two weeks before.

5 Q. So I understand clearly, you had told
6 Mr. McConnell that you were not going to run?

7 A. Yes, before the meeting.

8 Q. The statement continues to the next
9 paragraph. It reads, I called Battle who was
10 in his car and told him Coppinger was out. Do
11 you see that?

12 A. Yes.

13 Q. And from your testimony, it sounds
14 like you understood that Mr. Borthwick would
15 have given Mr. Battle the information that you
16 were not coming and were not going to nominate
17 him?

18 A. Mm-hmm.

19 Q. Battle was angry that they had gotten
20 to Coppinger. Do you see that?

21 A. Yes.

22 Q. Do you have an understanding as to
23 what Mr. Borthwick may have meant by that?

24 A. No.

1 Q. In the fourth paragraph on that page,
2 which is also yellow and begins with the words
3 Kerr, K-e-r-r, also backed out?

4 A. The fourth paragraph, yes, I got you.

5 Q. Third yellow paragraph?

6 A. Yes.

7 Q. Mr. -- the statement continues on.
8 I'm going to jump to the third line of that
9 paragraph where it reads Coppinger looks
10 scared to death. Do you see that?

11 A. Yes.

12 Q. Were you scared the night of the
13 meeting?

14 A. No. I was in pain, but not scared.

15 Q. Do you know why Mr. Borthwick would
16 have had that impression?

17 A. No.

18 Q. Did you see Mr. Battle at all the
19 night of the nominations meeting?

20 A. No.

21 Q. Did you speak with Mr. Battle at all
22 the night of the nominations meeting?

23 A. No.

24 Q. I'm going to ask you to turn to the

1 last page of that document, which is the one
2 that has the signatures on it.

3 A. Okay.

4 Q. And it reads, I called Coppinger
5 after the nomination meeting. Do you see
6 that?

7 A. Yes.

8 Q. Do you recall getting a phone call
9 from Mr. Borthwick after the nominations
10 meeting?

11 A. Yes.

12 Q. What was the substance of that
13 conversation?

14 A. Just back and forth. He was asking
15 me why I decided not to nominate him, decided
16 not to run, so just like back and forth. Like
17 I said, it's 15 months ago. We kind of had a
18 pandemic so I can't remember exactly
19 everything. But, yeah, that was like kind of
20 just why aren't you running, you know. So we
21 were going back and forth for a little bit.

22 Q. Recognizing it was 15 months ago,
23 give me your best recollection of what was
24 said during that conversation?

1 A. He probably asked me why ain't I
2 running and, you know, I probably said again
3 for health reasons, you know. Well, you can
4 run and do what you have to do for your
5 health, just back and forth, you know what I
6 mean. It's something I don't want to do, you
7 know what I mean. Like, at that time I didn't
8 want to do it. They want something so bad
9 that they want to push you to do it. I made
10 clear that because of the health reasons, my
11 family, I didn't want to do it.

12 Q. That paragraph continues, I know who
13 talked Coppinger out of it and what they said.
14 Do you see that?

15 A. Mm-hmm.

16 Q. Do you have any understanding as to
17 what Mr. Borthwick may have been referring to?

18 A. Yeah.

19 Q. What?

20 A. He's probably talking about my uncle
21 talking me out of it.

22 Q. Tell me more about that.

23 A. Phil said, you know, why don't you
24 want to run? I said, health reasons. He

1 said, well, you can run, dah, dah, dah. I
2 said, Phil, I don't want to. I got too much
3 going on. He kept pushing, pushing. I said,
4 I talked to my uncle, you know. He never told
5 me not to run, but he was like, what are you
6 doing, you got a great reputation, you know,
7 so that was it really.

8 Q. Who is the uncle you're referring to?

9 A. Ed Coppinger.

10 Q. Did you speak with Mr. Coppinger
11 prior to the nominations meeting?

12 A. I think the day before maybe or the
13 day of.

14 Q. Did you tell Mr. Borthwick anything
15 else about that conversation with Ed
16 Coppinger?

17 A. No, just I didn't want to run. I
18 didn't need the headache. I don't need the
19 aggravation.

20 Q. The statement continues, Coppinger
21 had been with the contractor for nine years.
22 Do you see that?

23 A. Yes.

24 Q. Is that the case?

1 A. Yes.

2 Q. The statement continues and says,
3 That's unheard of. Do you see that?

4 A. Yes.

5 Q. Is that pretty rare for someone to
6 have that consistent work?

7 A. Yes.

8 Q. And the statement continues, He could
9 not risk losing that. Do you see that?

10 A. Yes.

11 Q. Did you have any understanding that
12 you could risk losing that?

13 A. No, but you heard of other people,
14 you know, rumors of other people that, you
15 know, whatever conflict can happen things can
16 happen. We're a family, but we fight.

17 Q. Have you ever heard of people losing
18 work?

19 A. One guy told me that he had lost work
20 over it.

21 Q. Do you know who that was?

22 A. Kenny Rocks.

23 Q. When you say he had lost work over
24 it, what was your understanding of what he

1 lost work over?

2 A. I guess when he was running for
3 office a few years prior to.

4 Q. When did you have that conversation
5 with Mr. Rocks?

6 A. I never had -- I don't think me and
7 him had that conversation. I think that's
8 more through the grapevine.

9 Q. I thought you said Mr. Rocks had told
10 you that. Do I have that wrong?

11 A. He may have told me. But, you know,
12 you hear more stuff -- I know when Kenny was
13 running me and him weren't that close. So it
14 might have been after the fact, you know. And
15 I'm not saying that's even true, that that's
16 why he lost work. He might have lost work
17 because of other reasons, you know.

18 Q. But you had heard that?

19 A. Yes.

20 Q. Had you heard that prior to the
21 June 9, 2020 nominations meeting?

22 A. Yes.

23 Q. Is it your understanding that when
24 you decided not to nominate Mr. Battle, that

1 he would need somebody else to do it?

2 A. No. Like I said, he could probably
3 nominate himself.

4 Q. And just so I'm clear, what was that
5 understanding based on?

6 A. Which understanding?

7 Q. Your understanding that he could
8 nominate himself?

9 A. Years prior to, there was a
10 nominations meeting and I thought somebody
11 stood up and nominated themselves.

12 Q. Did you regularly go to nominations
13 meetings when there were elections?

14 A. Yeah.

15 Q. Would you say it was unusual for
16 someone to nominate themselves?

17 A. No. I mean, you could do it. It's
18 your preference.

19 Q. I'm curious as to whether people
20 actually did it or whether usually someone
21 would nominate them.

22 A. Yeah. I mean, for the most part I
23 think somebody nominates you, but there's like
24 no rule against you nominating yourself I

1 don't think.

2 Q. When you decided not to nominate

3 Mr. Battle, was it your understanding that he

4 would still run for office?

5 A. I don't know. He kind of left it up

6 in the air of what he was going to do.

7 Q. Did you have a conversation with him

8 about that?

9 A. Probably after the fact.

10 Q. Prior to the nominations meeting, did

11 you have a conversation with anyone else about

12 that?

13 A. Probably my wife.

14 Q. Anyone else from the union that you

15 had a conversation with about that?

16 A. Maybe guys on the job. I don't know.

17 Q. When you got to the union hall the

18 night of the nominations meeting, do you have

19 a sense of about how many people were there?

20 A. Maybe 500. They tend to be big

21 meetings. There's beer.

22 Q. Even during COVID, there'd be beer?

23 A. Yes. We couldn't go in the building

24 so we were out in the parking lot.

1 Q. Who arranges for the beer?

2 A. I don't know. I just drink it.

3 Q. Were people wearing campaign
4 T-shirts?

5 A. Yes.

6 Q. What T-shirts were they wearing?

7 A. I believe Dougherty T-shirts. Not
8 everybody, but a lot of people.

9 Q. Was anybody wearing any other
10 campaign T-shirts?

11 A. No.

12 Q. Were there food trucks there?

13 A. Yeah.

14 Q. Do you know arranges for those?

15 A. No.

16 Q. Was anybody talking about potential
17 candidates there?

18 A. By the time I got there -- like I
19 said, word travels fast with electricians, so
20 they already knew nobody else was running.

21 Q. Was there any discussion of anyone
22 else who might have run?

23 A. Charlie.

24 Q. Were people talking about Charlie

1 that night?

2 A. Some people.

3 Q. What were they saying?

4 A. Some were saying good. Some people
5 were saying bad.

6 Q. What do you mean when they say good,
7 good that he wasn't running or --

8 A. Some people liked the fact that he
9 wasn't running. Some people wanted him to
10 run.

11 Q. Do you have a sense that if he ran
12 some people would have voted for him?

13 A. Some people would have voted for him
14 for sure.

15 Q. Was anybody asking about who was
16 going to nominate candidates?

17 A. No. At that point, it was already --
18 it was over.

19 Q. Do you recall anyone asking about who
20 was going to nominate Battle if he ran?

21 A. No.

22 Q. You went to the union hall that
23 night. Did you attend the nominations meeting
24 itself?

1 A. Yes, it was in the backyard

2 (inaudible).

3 Q. Did anyone nominate themselves at the
4 meeting while you were there?

5 A. I don't know. At that point, I was
6 talking to all my friends and hanging out. We
7 knew that no one else was running so.

8 Q. Did you see anyone read out
9 nomination forms at the meeting?

10 A. No.

11 Q. Did you see any nomination forms that
12 night at all?

13 A. No.

14 Q. Do you know where you could have
15 gotten a nomination form?

16 A. I guess if you went in the building
17 you could ask for one.

18 Q. Is there a particular person you
19 would ask?

20 A. Maybe the secretary in the main hall.

21 Q. Was that like a designated person or
22 is it just that's who you would ask if you
23 did?

24 A. Well, the lady at the hall knows

1 everything. So if you want something, you go
2 and she tells you where to go.

3 Q. Do you know her name?

4 A. No. They have changed. My cousin
5 used to be there, Missy, but it changed over
6 time.

7 Q. I'm going to take you back to the
8 conversation or the communication you
9 mentioned you had with Ed Coppinger prior to
10 the nominations meeting.

11 A. Okay.

12 Q. How did you communicate with Ed
13 Coppinger? Did he call you?

14 A. Yes.

15 Q. Do you recall about when that was?

16 A. Somewhere around the nominations
17 meeting.

18 Q. Do you know what time of day it was?

19 A. It was during the day. I was at
20 work.

21 Q. Did you take the call or did you talk
22 to him some time later?

23 A. No, I took the call.

24 Q. Tell me about what you recall of that

1 conversation.

2 A. He was just first -- he asked me what
3 was going on and then he was like, he said,
4 well, I'm hearing some stuff, I don't want you
5 to get yourself in trouble, you know.

6 Q. Did he say who he was hearing stuff
7 from?

8 A. He did not say who, no.

9 Q. At that point, he was retired?

10 A. Yes.

11 Q. Do you know who would have in been in
12 communication with him?

13 A. No.

14 Q. Did he say what stuff he was hearing?

15 A. That I was getting into things I
16 shouldn't be involved in. You know, just be
17 careful.

18 Q. Did he say what he thought you were
19 involved in or heard you were involved in?

20 A. No, I just figured that was what he
21 alluded to.

22 Q. What did you figure he was alluding
23 to?

24 A. Me thinking about running.

1 Q. Did you tell him that you were
2 thinking about running?

3 A. No.

4 Q. How would he have heard that you were
5 thinking about running?

6 A. I don't know.

7 Q. And I think you said, he said he
8 didn't want you to get in trouble. Do I have
9 that right?

10 A. Yeah.

11 Q. What did he mean by that?

12 A. I don't know. He's probably like,
13 you know, you're nine years with a company.
14 You don't need any unwarranted headaches.

15 Q. Was it your understanding if you got
16 into trouble those nine years with the company
17 might be in jeopardy?

18 A. No.

19 Q. Then why did he mention it?

20 A. I don't know. If I did get elected,
21 I would have to give up that job to go take
22 another job.

23 Q. Why is that?

24 A. Because if you sit on the Board or

1 you're a business agent, you can no longer
2 work for the company. Now, you got to work
3 for the union.

4 Q. What was Ed Coppinger concerned
5 about?

6 A. Probably me.

7 Q. How so?

8 A. Well, him and my dad were close. So
9 he, you know, probably just heard something
10 and wanted to see what was going on.

11 Q. What was he concerned would happen?

12 A. I don't know.

13 Q. Did you decide not to nominate
14 Mr. Battle after speaking with Ed Coppinger?

15 A. I don't know if it was before or
16 after. Talking to Eddie really had no bearing
17 on what I was going -- I mean it did, but it
18 didn't, you know what I mean.

19 Q. No. What do you mean?

20 A. Well, it wasn't like he told me not
21 to do anything. But if your relative's
22 telling you -- an older relative's telling you
23 something, hey, think about what you're doing,
24 you might want to think about it.

1 Q. Would nominating Coppinger have
2 gotten you into the kind of trouble --

3 A. I wouldn't nominate myself.

4 Q. Let me ask a better question because
5 I messed it up. It's the end of the day.

6 A. I hear you.

7 Q. Was it your understanding that Ed
8 Coppinger thought nominating Mr. Battle could
9 get you in trouble?

10 A. I don't -- I don't know.

11 Q. After speaking with Ed Coppinger,
12 what did you believe would happen if you
13 nominated Mr. Battle for office?

14 A. I don't know what would have
15 happened. Hypothetical, I don't know.

16 Q. Did your call with Mr. Coppinger have
17 any influence on your decision whether to
18 nominate Mr. Battle or not?

19 A. Oh, with Eddie, no.

20 Q. Did Mr. Coppinger indicate that he
21 had gotten word from current union members?

22 A. He just said he got word from
23 somebody.

24 Q. Did you know who that somebody was?

1 A. No.

2 Q. Did you have any reason to speculate
3 who that somebody was?

4 A. No.

5 Q. Did you ever ask Ed Coppinger who
6 that somebody was?

7 A. No. I don't think we ever talked
8 about it after.

9 Q. Recognizing it was 15 months ago,
10 what's your best recollection of what your
11 uncle said to you, what Ed Coppinger said to
12 you?

13 A. You know, hey, what's going on.
14 Nothing. Oh, well -- I think he said he got a
15 phone call from somebody, he didn't say who,
16 and you know, just to be careful, watch what
17 I'm doing, you know. Don't, you know. That
18 was it really.

19 Q. What did you take that statement to
20 mean?

21 A. Just be careful of what I'm doing in
22 general.

23 Q. Did he raise any specifics about what
24 he thought you were doing or what someone

1 thought you may have been doing?

2 A. I don't remember.

3 Q. Did he mention a website at all?

4 A. No.

5 Q. Did he mention the election at all?

6 A. No.

7 Q. Why do you think someone would have
8 contacted Ed Coppinger about you?

9 A. I don't know. Your guess is as good
10 as mine.

11 Q. Did anyone contact you directly about
12 what they may have thought you were doing --

13 A. No.

14 Q. -- from the union?

15 A. No.

16 Q. By the time you had this conversation
17 with Ed Coppinger, had you already decided not
18 to seek office?

19 A. Yes.

20 Q. Just so I'm clear, you don't recall
21 whether you had decided not to nominate
22 Charlie Battle at the time you had that
23 conversation with Ed Coppinger?

24 A. I don't remember whether I -- it

1 didn't play a factor in it, so I don't really
2 remember if it did or it didn't.

3 Q. How often does Ed Coppinger call you?

4 A. Not that often.

5 Q. When you got the call that we were
6 just speaking about with Ed Coppinger, when
7 was the last time he had called you?

8 A. Before that, two or three months.

9 Q. You mentioned you didn't want the
10 aggravation from running. Do you recall
11 telling me that?

12 A. Yes.

13 Q. What did you mean the aggravation?

14 A. Like I said, Kenny Rocks ran a few
15 years before that and I heard he had, you
16 know, headaches. I guess, you know, with any
17 campaign, whatever, arguing back and forth.

18 Q. When you say headaches, what do you
19 mean?

20 A. The arguing and bickering, you know.
21 It's before in the hall, so when you go there,
22 who's saying what, who's screaming what, you
23 don't need to be at the center of that.

24 Q. Well, if I remember right, you told

1 me that you had heard that there were
2 consequences to Mr. Rocks for running,
3 correct?

4 A. I heard he lost work, but that's, you
5 know, hearsay.

6 Q. Do you recall hearing that from more
7 than one person?

8 A. From who?

9 Q. More than one person?

10 A. Yeah, I probably did.

11 MS. DeBRUICKER: Are you
12 okay to keep going?

13 MR. PATRIZIO: How much
14 more do you have?

15 MS. DeBRUICKER: Not much.

16 MR. PATRIZIO: Okay. Are
17 you okay to go forward?

18 THE WITNESS: Yes, sir.

19 MR. PATRIZIO: Okay. It is
20 Friday. I'm trying to get you out of
21 here --

22 THE WITNESS: I'm fried,
23 man. I'm fried.

24 MS. DeBRUICKER: I hear

1 you.

2 THE WITNESS: Besides
3 working all day, I'm stressed.

4 BY MS. DeBRUICKER:

5 Q. Caffeine break?

6 A. No, I'm good.

7 MS. DeBRUICKER: We're
8 going to have this document marked as
9 M.Coppinger-3.
10 (Exhibit marked
11 M.Coppinger-3 for identification.)

12 BY MS. DeBRUICKER:

13 Q. Mr. Coppinger, I will have you take a
14 quick look at that and then I'll give you some
15 context and ask you some questions.

16 A. Mm-hmm.

17 Q. Mr. Coppinger, what we've marked as
18 M.Coppinger-3 has a title on the first page
19 that says, Declaration of Ed Coppinger. Do
20 you see that?

21 A. Yes.

22 Q. And if you skip to the last page,
23 you'll see it's dated the 16th of September
24 and has a signature of Ed Coppinger. Do you

1 see that?

2 A. Yes.

3 Q. Have you seen this document before?

4 A. Yes.

5 Q. When did you see this document?

6 A. The other day.

7 Q. How did you come across this
8 document?

9 A. I believe Steve showed it to me.

10 Q. Did Steve show you any other
11 documents when you met with him?

12 A. No.

13 Q. Were you involved in the preparation
14 of this document at all?

15 A. No.

16 Q. I understand this to be a statement
17 of Ed Coppinger. Did Ed Coppinger talk to you
18 about this statement at all before he made it?

19 A. No.

20 Q. Recognizing that this is at least
21 understood to be a statement from Ed
22 Coppinger, I'm going to ask you a little bit
23 about some portions of the statement that deal
24 with you.

1 A. Okay.

2 Q. The paragraphs have numbers on them,
3 so that's a little bit easier to find them at
4 this time. If you look at Paragraph No. 4 it
5 reads, In or about early June 2020, I believe
6 June 5, 2020, I received a telephone call from
7 a member of the union while I was golfing at
8 Stone Harbor Golf Club. Do you see that?

9 A. Yes.

10 Q. Would you have any information as to
11 who that union member was?

12 A. No.

13 Q. Paragraph No. 5 reads, The member
14 called to give me a heads-up that Michael
15 Coppinger, my cousin's son, was involved in
16 certain other union members who were believed
17 to be agitators. Do you see that?

18 A. Yes.

19 Q. Did Ed Coppinger convey that
20 information to you at all?

21 A. Yeah, in so many words.

22 Q. That you were involved with members
23 who some people considered to be agitators?

24 A. No, he was just like you just got to

1 watch who you're hanging around with and
2 associated with.

3 Q. And what did you take from that?

4 A. That I should watch who I hang around
5 with and associate with.

6 Q. Did you take from that there were
7 certain people that were disfavored in the
8 union?

9 A. No. But, you know, sometimes when
10 people argue or whatever. I don't know.

11 Q. Paragraph 6 continues, I was
12 surprised that Michael might be associating
13 with such members who I consider to be
14 troublemakers. Do you see that?

15 A. Mm-hmm.

16 Q. Did Ed Coppinger tell you who he
17 considered to be a troublemaker?

18 A. He didn't say who, no. I don't
19 believe.

20 Q. Did he say that he considered some
21 people to be troublemakers?

22 A. Yes.

23 Q. Did he say why he thought they were
24 troublemakers?

1 A. I think he said certain people run
2 for certain positions for their own sake, not
3 for the good of the union.

4 Q. Did he say why he thought some people
5 may be doing that?

6 A. I don't remember.

7 Q. Do you recall him saying people who
8 were running for election?

9 A. Unh-unh.

10 Q. Then I may have misunderstood your
11 testimony just now.

12 A. Why is that?

13 Q. About people running for their own
14 themselves as opposed to the good of the
15 union.

16 A. He didn't say he knew who was
17 running. He just said, the people who you're
18 associating with, just watch, be careful. You
19 know, some people run for their own sake
20 rather than the good of the union.

21 Q. And when he said people who run for
22 their own sake, did you understand that to
23 mean people running for officer election?

24 A. Certain people, yeah.

1 Q. Paragraph 6, just to finish Paragraph
2 6 it says, Members who I consider to be
3 troublemakers or guys with just personal
4 grievances who have no interest in or clue on
5 how to run or operate a union. Do you see
6 that?

7 A. Mm-hmm.

8 Q. Did Ed Coppinger mention anything to
9 you at all about that in his call with you?

10 A. Yeah, if he says he did.

11 Q. Well, I'm asking what you recall?

12 A. I don't remember a 10-minute phone
13 call 15 months ago. So much has happened
14 since then.

15 Q. Do you know where he was when he
16 called you?

17 A. He said he was on the golf course.

18 Q. Well, he says here he was on the golf
19 course when he got the call.

20 A. Oh, well, I don't know where he was
21 when he called me.

22 Q. Are there any qualifications to run
23 for office?

24 A. Yeah. You have to be a dues-paying

1 member and your dues have to be up-to-date.

2 Q. Any other criteria for seeking
3 office?

4 A. Not that I know of.

5 Q. Continue on the next page, Paragraph
6 7 says, After the call, I called Michael. Do
7 you see that?

8 A. Yes.

9 Q. And I understand that to be you?

10 A. Yes.

11 Q. Do you know about how much time
12 passed between when Ed Coppinger got the call
13 on the golf course and when he called you?

14 A. No.

15 Q. He didn't say that, do you recall?

16 A. No.

17 Q. Paragraph 8 reads, I told Michael
18 that I got a call from a union member who was
19 concerned about him getting involved with
20 members who are interested only in their
21 personal interests and not the union's. Do
22 you see that?

23 A. Yes.

24 Q. And again, he didn't identify who the

1 union member was?

2 A. He might have. I don't -- when I got
3 this phone call, I'm at work. I was the
4 steward on the job. So I'm trying to do my
5 job, dealing with guys' problems, talking to
6 him on the phone. It was a lot, you know.

7 Q. Do you recall either way whether he
8 mentioned the union member's name or not?

9 A. I really don't. I'm sorry.

10 Q. I'm just trying to make sure that I
11 understand. If you don't remember either way
12 or if you have an absolute recollection that
13 he didn't mention it?

14 A. I don't really remember either way.

15 Q. I don't mean to drill into you. I
16 just need to understand whether it's, oh, he
17 may have or I remember and he didn't say?

18 A. Yeah, I don't remember either way.

19 Q. And again, member was concerned about
20 you getting involved with members. Did he say
21 anything more about what he meant by you
22 getting involved with people?

23 A. No.

24 Q. Did you have any understanding as to

1 what he may have meant by that?

2 A. I don't know. I don't know exactly
3 what he meant. At that time I was running
4 Florence Rigid, dealing with him, like I said
5 dealing with guys, across the street we had a
6 nonunion job going. Pandemic was just
7 starting. A lot was going on in my head.

8 Q. The last sentence in Paragraph 8
9 reads, I said to Michael that by being
10 involved with such members, he was only
11 hurting the union. Do you see that?

12 A. Yes.

13 Q. Do you recall him saying something to
14 that effect?

15 A. Something like that, yes.

16 Q. Do you understand why he said that?

17 A. No, but it was probably related to
18 the next thing that he said on the paper.

19 Q. What I say about getting ahead of me.

20 A. Oh, I'm sorry.

21 Q. Did you have an understanding as to
22 how your involvement with anybody could hurt
23 the union?

24 A. No.

1 Q. No. 9 reads, I told Michael that I
2 was hearing that he might be involved with the
3 website which had inflammatory comments that
4 were harmful to the union and that he was
5 holding meetings at the house with these self-
6 serving members.

7 A. Both of that's untrue.

8 Q. So I'm going to be sure I understand,
9 hearing that you might be involved with the
10 website, do you know what website he's
11 referring to?

12 A. I know what website he's talking
13 about, but I have nothing to do with that.

14 Q. Just so I'm clear, what website was
15 he referring to?

16 A. There was a website that went around,
17 truth about the union or something. I don't
18 do websites or anything. I'd rather talk, me
19 and you. I don't -- if I have something to
20 say, I'm just going to tell you. You might
21 not like it, but I'm going to tell you. So I
22 don't get behind -- I'm not a keyboard tough
23 guy. I'd rather just say what I have to say
24 to you.

1 Q. Was it your understanding that this
2 website did have inflammatory comments about
3 the union?

4 A. Yes.

5 Q. Had you ever visited the website?

6 A. The one time when I first heard about
7 it.

8 Q. Would you want to have any
9 affiliation with that website at all?

10 A. No.

11 Q. And would you, in fact, want not to
12 be affiliated with that website?

13 A. I would rather not be affiliated.

14 MR. PATRIZIO: Continue
15 with the deposition. I just have to
16 step out for a minute. Keep going.

17 BY MS. DeBRUICKER:

18 Q. And the second line in the paragraph
19 says that he was holding meetings at his house
20 with these self-serving members. Do you see
21 that?

22 A. Yes. I never had a meeting at my
23 house.

24 Q. Do you know what kind of meeting he

1 would be referring to?

2 A. I know -- you okay?

3 Q. Yeah.

4 A. I know Charlie had a few meetings at
5 his house.

6 Q. Did you ever attend those meetings?

7 A. I attended one.

8 Q. Do you remember about when that was?

9 A. A couple of months before the
10 nominations.

11 THE WITNESS: You okay,
12 buddy?

13 MR. PATRIZIO: I told your
14 wife I'd give you a ride home, but
15 then I remembered you live in New
16 Jersey. So I said I'm going to send
17 you in an Uber.

18 THE WITNESS: No.

19 MS. DeBRUICKER: Wish I had
20 a lawyer --

21 THE WITNESS: You'll be
22 Uncle Steve by the end of this.

23 BY MS. DeBRUICKER:

24 Q. Did you take it from your uncle's or

1 from Ed Coppinger's statement that he didn't
2 consider meetings to be a good thing, these
3 kinds of meetings to be a good thing?

4 A. Yeah.

5 Q. Why is that?

6 A. Well, in the thing he said, you know,
7 troublemakers or whatever.

8 Q. And then he continues, Michael denied
9 any involvement with the website or having any
10 such meetings at his house. Do you recall
11 telling him that?

12 A. Yup.

13 Q. And you've never had a meeting at
14 your house about the union?

15 A. No.

16 Q. I will try to skip where I can.

17 Paragraph 12, I reminded Michael that he
18 carries the Coppinger name, and I told him he
19 should not disgrace our name by allowing
20 himself to be manipulated by other members who
21 have their own agendas. Do you see that?

22 A. Yes.

23 Q. Do you recall him saying that?

24 A. Something like that, yes.

1 Q. Something to that effect?

2 A. Yes.

3 Q. I take it you wouldn't want to
4 disgrace the Coppinger name?

5 A. No.

6 Q. Did you understand him to be saying
7 that by being affiliated with certain people,
8 it could disgrace the Coppinger name?

9 A. Yes.

10 Q. It continues on Paragraph 13, I
11 additionally asked him why would you, Michael,
12 want to get into someone else's problems. Do
13 you see that?

14 A. Yes.

15 Q. Do you recall him asking you that?

16 A. Yeah, something like that.

17 Q. Do you know what he meant by someone
18 else's problems?

19 A. I didn't when he was first saying it,
20 but then, you know.

21 Q. Did you come to understand what he
22 meant?

23 A. Yes.

24 Q. And how?

1 A. Well, as he went on, he just said,
2 you know, certain people that are running have
3 grievances with the hall for personal reasons
4 and, you know, basically don't put yourself,
5 like, you know, he's an older uncle or
6 whatever, so he's just trying to look out for
7 me.

8 Q. And do you know how he thought you
9 may have been getting into someone else's
10 problems?

11 A. I guess whatever was going on between
12 Charlie and the hall.

13 Q. Was it your understanding that's what
14 he was speaking about?

15 A. I probably believe that's what he was
16 alluding to, yes.

17 Q. Did he say that specifically or did
18 you make that connection?

19 A. No, I just made the connection.

20 Q. It continues, And why would you get
21 involved with anyone who was just asking for
22 selfish personal reasons. Do you see that?

23 A. Yes.

24 Q. Do you recall him asking you that?

1 A. Yeah, he probably said something to
2 that effect.

3 Q. He continues, I believe Michael
4 understood that the someone I was referring to
5 was Member Charlie Battle. Do you see that?

6 A. Yes.

7 Q. Do you recall he naming Charlie
8 Battle in your --

9 A. I don't remember him actually giving
10 any names.

11 Q. Would there be a reason for him not
12 to tell you a name?

13 A. Not that I know of.

14 Q. 14 continues, Michael assured me that
15 if he had any issues with the union, he would
16 speak directly to the business manager. Do
17 you see that?

18 A. Yup.

19 Q. Do you recall telling him that?

20 A. Yup.

21 Q. Who is the business manager?

22 A. Johnny Doc.

23 Q. I take that John Dougherty?

24 A. Yes.

1 Q. It's being written down.

2 A. Oh, sorry.

3 Q. It continues, He even gave me an
4 example where he did go directly to the
5 business manager. And according to him, the
6 problem was resolved after he had done so. Do
7 you see that?

8 A. Yes.

9 Q. Do you recall giving Ed Coppinger
10 that example?

11 A. Mm-hmm.

12 Q. What example did you give him?

13 A. I had a problem with the wives being
14 knocked off the health care. I just think we
15 paid too much money for health care for our
16 wives and kids to not be on our health care.
17 So I brought it to John. He said, give me a
18 few days, let me see what I can do and
19 everything got worked out.

20 Q. Do you recall when that was?

21 A. Around the same time as the
22 nominations meeting, I believe.

23 Q. Do you recall whether it was before
24 or after?

1 A. It was before.

2 (Background noise.)

3 THE WITNESS What the hell
4 is that?

5 MR. PATRIZIO: The
6 partition next door.

7 MS. DeBRUICKER: It's a
8 thin wall. You don't have to answer
9 those questions. You only have to
10 answer these.

11 BY MS. DeBRUICKER:

12 Q. Paragraph 15 reads, When I spoke with
13 Michael, I had no idea he might be considering
14 running or nominating another member for an
15 elective office with the union. Do you see
16 that?

17 A. Mm-hmm.

18 Q. So why do you think he was calling
19 you about Charlie Battle?

20 A. Like I said, he's an older member of
21 the family. He doesn't want to see any of us
22 get in trouble or jammed up.

23 Q. What involvement did he think you had
24 with Charlie Battle?

1 A. I don't know for sure what he
2 thought, you know. But he initially did ask
3 me about the meetings, so he was probably
4 alluding to that.

5 Q. Did this conversation with Ed
6 Coppinger affect your decision whether to
7 nominate Charlie Battle for office or not?

8 A. I don't think so, no.

9 Q. Did Ed Coppinger give you any
10 impression that your career would be finished
11 if you affiliated yourself with the people he
12 was concerned about?

13 A. No. But you can read here that, you
14 know, he didn't want me hanging out with them
15 or whatever.

16 Q. Why did he feel so strongly about it,
17 do you think?

18 A. He probably didn't want me to get in
19 trouble.

20 Q. And being affiliated with these
21 people would get you in trouble?

22 A. I don't know. I'm just like -- in my
23 mind, he's probably like we're four
24 generations in the Local. We have pretty good

1 names in the Local. So, you know, his son's
2 in the Local, my cousin Eddie, you know. He
3 just wants to see us do good.

4 Q. He doesn't want you making any waves?

5 A. (Nodded head).

6 Q. Is that a yes?

7 A. I mean, I guess.

8 MR. PATRIZIO: You have to
9 answer. You can't shake your head.

10 MS. DeBRUICKER: She has to
11 write it down.

12 THE WITNESS: Sorry.

13 BY MS. DeBRUICKER:

14 Q. Are you aware that other people
15 thought you were running for office as of the
16 time --

17 A. Probably, yeah.

18 Q. And who do you think was aware?

19 A. Just other guys at work, out on the
20 job site or whatever.

21 Q. Are you aware that other people
22 thought you were nominating Charlie Battle?

23 A. That I wasn't aware of. It should
24 have just been a select few.

1 Q. And who would the select few be?

2 A. Probably me, Charlie and Phil.

3 (Exhibit marked

4 M.Coppinger-4 for identification.)

5 BY MS. DeBRUICKER:

6 Q. I'm going to show you what we'll mark
7 as M.Coppinger-4.

8 MS. DeBRUICKER: Why don't
9 we go off the record so you can
10 change the videotape.

11 THE VIDEOGRAPHER: Yeah.

12 This concludes Media 1. We are going
13 off the video record at 6:19 p.m.

14 (Brief recess.)

15 THE VIDEOGRAPHER: This is
16 the beginning of Media No. 2. We are
17 back on the video record at 6:22 p.m.

18 BY MS. DeBRUICKER:

19 Q. Mr. Coppinger, I'm going to ask you
20 to look at what we've marked as M.Coppinger-4,
21 which is another statement at the top. And if
22 you turn to the back, you see it was a
23 statement signed by Timothy McConnell on
24 October 15, 2020. Do you see that?

1 A. Yes.

2 Q. I'll represent this is a statement

3 Mr. McConnell signed on that date.

4 MR. PODRAZA: And again, my

5 objection, that the witness should

6 know that this was a statement

7 prepared by a representative of DOL.

8 It was not typed by Mr. McConnell.

9 He reviewed it and signed. These

10 words were put in by a representative

11 of DOL.

12 BY MS. DeBRUICKER:

13 Q. I'm going to move as quickly through

14 this as I can. Mr. Coppinger, on the second

15 page there's some highlighting?

16 A. Yes.

17 Q. In the second yellow paragraph that

18 begins, Dougherty began --

19 A. Mm-hmm.

20 Q. Statement reads, Dougherty began the

21 conversation by saying, Tim, why are you

22 running. Why do you want to fix something

23 that isn't broken. Do you see that?

24 A. Yes.

1 Q. You mentioned that Mr. McConnell
2 mentioned to you that he had had a
3 conversation with Mr. Dougherty?

4 A. He said he had a conversation with
5 somebody at the hall, yes.

6 Q. Did he mention that someone had asked
7 him why he was running?

8 A. I don't think so. Because if you say
9 you're running, a lot of people are going to
10 ask you.

11 Q. The next paragraph begins, Dougherty
12 told me it would be a long three years if you
13 lose. Do you see that?

14 A. Mm-hmm.

15 Q. Did Mr. McConnell share that
16 statement with you when he spoke with you?

17 A. I don't know if he told me directly,
18 but it was hearsay. It works its way around.

19 Q. So you --

20 A. A lot of things worked their way
21 around --

22 Q. So you heard it?

23 A. Yeah.

24 Q. Did you have an understanding as to

1 what was meant by that?

2 A. No, he said it to Timmy. He didn't
3 say it to me.

4 Q. When did you hear of this? When did
5 it work its way around?

6 A. I don't know if I heard it -- maybe
7 the week following the nomination I heard it.

8 Q. Did Mr. McConnell say that someone
9 told him he would be affiliated with the
10 website if he ran?

11 A. Not that I remember, no.

12 Q. I'm going to direct your attention to
13 the last yellow paragraph on that page. It
14 begins, I called Battle and Borthwick to tell
15 them what happened --

16 A. Mm-hmm.

17 Q. -- which immediately follows the
18 discussion of the phone call we were talking
19 about.

20 A. Okay.

21 Q. It reads, They told me to get in
22 touch with Member Mike Coppinger. Do you see
23 that?

24 A. Yes.

1 Q. And did he, in fact, get in touch
2 with you?

3 A. Yes.

4 Q. The statement continues, I did not
5 know Coppinger, but I remember he was thinking
6 of running for office. Do you see that?

7 A. Yes.

8 Q. Do you know how he would have known
9 that?

10 A. I guess he's friends with Charlie.

11 Q. It continues, Coppinger told me he
12 was taking a nap and woke up to 50 phone
13 calls. Do you see that?

14 A. Yes.

15 Q. Do you recall telling him that?

16 A. Yes.

17 Q. Did that actually happen?

18 A. Yes.

19 Q. It continues, Coppinger told me I'm
20 out, it ain't worth it. Do you see that?

21 A. Yes.

22 Q. Do you recall telling him that?

23 A. Yes.

24 Q. Do you recall telling him that during

1 that phone call?

2 A. I believe so.

3 Q. And why did you tell him at that
4 time?

5 A. Well, I had been already telling
6 Charlie and Phil my whole situation. I just
7 couldn't do it.

8 Q. When you say it ain't worth it, what
9 did you mean?

10 A. It just wasn't worth that much to me
11 anymore. The situation with the health care
12 got resolved and...

13 Q. The aggravation we talked about?

14 A. Mm-hmm.

15 Q. Did that include the trouble that
16 your uncle mentioned?

17 A. I -- you have to ask him. I guess.

18 Q. Well, I'm asking what your
19 calculation as to why it wasn't worth it?

20 A. I guess. I don't know.

21 Q. Do you recall specifically either
22 way?

23 A. No.

24 Q. It continues, I was surprised because

1 all along Battle and Borthwick said Coppinger
2 was 100 percent in. Do you see that?

3 A. Mm-hmm.

4 Q. Do you understand how he could have
5 gotten that impression?

6 A. Well, I understand that they wanted
7 me to be 100 percent in.

8 Q. At any time, were you 100 percent in?

9 A. No.

10 Q. It's my understanding you were
11 considering being in?

12 A. Mm-hmm.

13 Q. And then decided not to be in?

14 A. Right.

15 Q. It continues, I'm not certain why
16 Coppinger did not run, but I'm sure Coppinger
17 got a call, and it continues on to reference
18 your uncle. Do you see that?

19 A. Yes.

20 Q. How would Mr. McConnell have known
21 about the call with your uncle?

22 MR. PODRAZA: Objection.

23 It doesn't say he knew about the
24 call. He's speculating.

1 THE WITNESS: I have no
2 idea.

3 BY MS. DeBRUICKER:

4 Q. Do you know how Mr. McConnell could
5 have gotten this information?

6 A. Maybe from Phil. I don't know.

7 Q. Did you tell Mr. McConnell about your
8 call with your uncle, about your call with Ed
9 Coppinger?

10 A. No.

11 Q. Besides Phil Borthwick, who else did
12 you tell about your call with Ed Coppinger?

13 A. I don't remember if I told Charlie or
14 not. Probably just Phil.

15 (Exhibit marked
16 M.Coppinger-5 for identification.)

17 BY MS. DeBRUICKER:

18 Q. I'm going to ask you to look at what
19 we've marked as M.Coppinger-5. And you have
20 to page back two pages to get to the similar
21 statement. Do you see that?

22 A. Mm-hmm.

23 Q. And if you turn to the last page --

24 A. Mm-hmm.

1 Q. -- this is a statement that was
2 signed by Mr. Battle. Do you see that?

3 A. Yes.

4 Q. And if you turn to the second page of
5 the statement where there's some yellow
6 marking on it, do you see that?

7 A. Yes.

8 Q. The statement reads, I sat in my
9 truck until 6:40 p.m. and then went to the
10 hall to meet up with Members John Kerr and
11 Phil Borthwick who were among those gathered
12 outside the union hall. Do you see that?

13 A. Yes.

14 Q. Do you know who John Kerr is?

15 A. I think I met him a long time ago
16 when I was an apprentice.

17 Q. Would you recognize him if you saw
18 him?

19 A. No.

20 Q. Do you remember seeing him at the
21 union hall that night?

22 A. No.

23 Q. It continues, At 6:50 p.m. Coppinger
24 called Borthwick and told him he was not

1 coming to nominate me. Do you see that?

2 A. Yes.

3 Q. Did you communicate to Mr. Borthwick
4 that night that you were not nominating
5 Mr. Battle?

6 A. Yes.

7 Q. It's my understanding you didn't tell
8 Mr. Battle that directly?

9 A. No.

10 Q. Why not?

11 A. He was already -- when I got there, I
12 said where's he at. They said, he left. He
13 was all mad. I don't know.

14 Q. You didn't think to call him?

15 A. No. I thought if he wanted to call,
16 he would have called me.

17 Q. It continues, It was at that point I
18 learned Coppinger had been intimidated out of
19 nominating me for office. There's an
20 handwritten correction.

21 A. Yeah, I see it.

22 Q. You hadn't communicated to Mr. Battle
23 that you were not nominating him prior to that
24 point, correct?

1 A. I don't believe so.

2 Q. It continues, Some time between
3 5 o'clock and 6:50 p.m. on June 9th, Coppinger
4 received a phone call from his Uncle Ed
5 Coppinger. Do you see that?

6 A. Yeah.

7 Q. Does that recitation of the timing
8 jive with your recollection as to when you got
9 that call?

10 A. I think the call was earlier in the
11 day.

12 Q. I think you said you were on the job?

13 A. I was working.

14 Q. Do you recall what time you left work
15 typically that --

16 A. 3:30 every day usually.

17 Q. And by that point, had you shared
18 with Mr. Borthwick your call with Ed
19 Coppinger?

20 A. Probably.

21 Q. Do you have an understanding as to
22 what impact your decision not to nominate
23 Mr. Battle would have on his candidacy?

24 A. I didn't think it would have much

1 impact. Because if he still wanted to run,
2 there was other people that could have
3 nominated him. Like I said, he could have
4 nominated himself.

5 Q. Do you think other people who -- if
6 someone else nominated him, they would have
7 gotten in the kind of trouble Ed Coppinger
8 talked to you about?

9 A. I don't know.

10 Q. Did you have any concerns that
11 seeking office would have an impact on your
12 job or your income?

13 A. No.

14 Q. Did you think that seeking office
15 could impact your reputation at the union?

16 A. Maybe.

17 Q. Why do you say that?

18 A. Like they said earlier, different
19 things that had happened. You hear things
20 through the grapevine, like what happened with
21 Kenny or whatever.

22 Q. Kenny Rocks?

23 A. Yes.

24 Q. And Ed Coppinger had mentioned the

1 Coppinger name?

2 A. Yes.

3 Q. Would there be concern about the
4 Coppinger name if you ran?

5 A. Yes.

6 Q. Did you have concern you would be
7 affiliated with the website if you ran?

8 A. I wasn't too worried about that.

9 Most people know how I am and that I wouldn't
10 have anything to do with that.

11 Q. If someone did affiliate you with the
12 website, would you consider that harmful to
13 your reputation?

14 A. Yes.

15 Q. Did you think that running would lead
16 to any other consequences for you?

17 A. No.

18 Q. Did you think that supporting a
19 challenger candidate like Mr. Battle could
20 impact your job?

21 A. Probably not.

22 Q. Why probably?

23 A. You never can tell what's going to
24 happen in a hypothetical situation, but I

1 don't think it would have.

2 Q. Did you think that supporting a
3 challenger candidate like Mr. Battle can
4 impact your reputation in the union?

5 A. Yes.

6 Q. Why do you say that?

7 A. Like I said, there will be guys that
8 like Charlie and guys that don't like Charlie.

9 Q. So it could be a good impact to your
10 reputation or a bad impact to your rep --

11 A. It could be both at the same time.

12 Q. Did you think that supporting a
13 challenger candidate like Mr. Battle would
14 lead to any other consequences for you?

15 A. No.

16 Q. If you could have done so without any
17 consequences, would you have nominated
18 Mr. Battle?

19 A. I don't know.

20 Q. What did you have to lose by
21 nominating Mr. Battle?

22 A. Like we just said, my reputation.

23 Q. Did any Local 98 business agent ever
24 contact you about meetings held outside of the

1 union?

2 A. No.

3 Q. Did any Local 98 business agent ever
4 think that you were holding meetings at your
5 house?

6 A. If they did, they never brought it to
7 me.

8 Q. Has anyone from the union talked to
9 you about this case?

10 A. No.

11 Q. Has anyone from the union tried to
12 influence your participation in this case of
13 what you might say?

14 A. No.

15 Q. Are you aware that Local 98 has
16 brought a lawsuit against Charles Battle?

17 A. I heard.

18 Q. Did you get a subpoena to testify in
19 that case?

20 A. I don't know. I don't think so.

21 Q. Did you attend Local 98's August 2021
22 meeting?

23 A. I think I went to the July meeting, I
24 think.

1 Q. It's my understanding that Local 98

2 just started having meetings again?

3 A. The first meeting that they had after

4 the COVID stopped, I did go to that meeting.

5 I don't know if it was August or July.

6 Q. Was anything said to you by union

7 leadership at that meeting?

8 A. No.

9 Q. Did Mr. Dougherty speak to you at

10 that meeting?

11 A. Nope.

12 Q. Did someone at the meeting suggest

13 that the union had information that could get

14 Mr. McConnell locked up?

15 A. Not that I recall. I'm not saying

16 that that didn't happen. But when you're at

17 the meeting, people are talking. Not

18 everybody is paying attention to the meeting

19 thing that's going on.

20 Q. Did you hear anything to that effect?

21 A. No.

22 Q. As best as you recall, help me

23 understand the timing between when you spoke

24 with Ed Coppinger and when you told

1 Mr. Borthwick you would not nominate

2 Mr. Battle?

3 A. I probably spoke to Eddie late in the
4 day, whatever day it was, whatever the day the
5 nominations meeting was. And I probably
6 talked to Phil because I know I called him
7 after work but he didn't answer the phone, so
8 I probably talked to him while I was driving
9 down to the meeting. I was already late, so I
10 probably called him on the way.

11 Q. What's your best recollection of when
12 you began discussing or considering seeking
13 office in June 2020 election?

14 MR. PODRAZA: Objection.

15 Asked and answered. You can proceed.

16 THE WITNESS: Oh, like I
17 said earlier, a couple of months
18 before when we had the health care
19 thing.

20 BY MS. DeBRUICKER:

21 Q. Do you recall about when that was?

22 A. No, just a couple months before the
23 nomination.

24 Q. Do you know if it was before COVID?

1 A. I believe, yeah. I believe it was
2 before COVID.

3 Q. In my head, I associate COVID with
4 March 2020.

5 A. I believe it was before.

6 MS. DeBRUICKER: I think
7 those are all the questions I have.

8 THE WITNESS: Thank you.

9 MR. PODRAZA: You're not
10 off that easy.

11 THE WITNESS: Oh, God.

12 MR. PATRIZIO: He may have
13 a question or two.

14 MR. PODRAZA: I only have a
15 few. It won't be long.

16 - - -

17 EXAMINATION

18 - - -

19 BY MR. PODRAZA:

20 Q. If you can put before you again
21 Exhibit 3, that's Ed Coppinger's Declaration.
22 And if we can go to Paragraph 15?

23 A. Yes.

24 Q. All right. The very last sentence Ed

1 Coppinger says, Michael and I did not speak
2 about any nominations, election or running for
3 office during the call he had; is that true?

4 A. That's true.

5 MS. DeBRUICKER: I'll
6 assert the same objection that
7 someone else probably typed this up.
8 We don't yet have confirmation
9 that --

10 MR. PODRAZA: Okay.

11 BY MR. PODRAZA:

12 Q. Then in Paragraph 16 it stated, the
13 second sentence, And it is untrue that I
14 called Michael to deliver a message from John
15 Dougherty that Michael's career would be
16 finished if he ran for office.

17 Did Ed Coppinger ever make such
18 a threat or words to that effect to you during
19 that call?

20 A. No.

21 (Exhibit marked
22 M.Coppinger-6 for identification.)

23 BY MR. PODRAZA:

24 Q. I'd like to show what we're going to

1 mark as M.Coppinger-6. What I've shown you
2 and what we're marking as M.Coppinger-6 is a
3 letter of assent. Stacy Coppinger, is that
4 your wife?

5 A. Yes.

6 Q. And do you and your wife run
7 Coppinger Electric?

8 A. We did.

9 Q. But you did in 2020; is that correct?

10 A. Yes, sir.

11 Q. And am I correct then that the
12 company was a signatory contractor business
13 with IBEW Local 98 as of May 12, 2020
14 according to this; is that correct?

15 A. I believe so.

16 Q. And you helped run the company when
17 it was in operation?

18 A. Really didn't go too far in
19 operation. We opened up the company, kind of
20 was like still structuring it when COVID hit
21 and after that we just folded.

22 Q. But up to that point, you had worked
23 with your wife in organizing the company with
24 the intent to go forward with it?

1 A. Yes.

2 Q. And you said it's no longer a
3 signatory contractor business; is that
4 correct?

5 A. No.

6 Q. Just give me one second.

7 A. Take your time.

8 Q. And just so with respect to
9 M.Coppinger-6, you recognize your wife's
10 signature there; is that correct?

11 A. Yes.

12 Q. And you also recognize the business
13 manager for Local 98 signature?

14 A. Yes.

15 Q. And both are dated May 12, 2020?

16 A. Yes.

17 MR. PODRAZA: Thank you,
18 sir. Those are all the questions
19 that I have.

20 - - -

21 EXAMINATION

22 - - -

23 BY MS. DeBRUICKER:

24 Q. One follow-up question: What is a

1 signatory business?

2 A. So when you decide to open a union
3 shop, you have to sign with the Local if you
4 want to be union.

5 Q. And I take it at some point you
6 formulated an intent to become a signatory
7 business?

8 A. Yes, we were going to open up a
9 company.

10 Q. When did you decide to do that?

11 A. Just before my health scare.

12 Q. And can you give me a sense in time
13 as to when your health scare began?

14 A. 20 -- the end of 2019 maybe, the
15 beginning of 2020 they discovered the tumor.
16 And then they went in to look to see if it was
17 growing and they thought it was too close to
18 the spine and we should remove it. And all of
19 this was another doctor's appointment, another
20 MRI, another CT scan, another, you know, my
21 wife ripping her hair out.

22 Q. And at some point, did you decide not
23 to pursue that business?

24 A. Yeah. When -- like I said, when all

1 the health stuff was going on, it was too much
2 on my plate to do really anything. I was
3 struggling to take my kids to sporting events,
4 you know, their games so.

5 Q. Can you give me a sense as to a point
6 in time when you made that decision not to go
7 forward with the business?

8 A. We were still going back and forth.
9 And then I think once everything started up
10 with COVID, that was it.

11 Q. But you signed -- the signatures on
12 this is May 2020?

13 A. Yes.

14 Q. So at this point, you still intended
15 to move forward?

16 A. We already had everything in place,
17 so she was like we'll put a few bids out and
18 see what happens. So that's basically -- it
19 was the last straw then, let's see what
20 happens. But there just wasn't enough work
21 out there during the pandemic to, you know. I
22 don't want to leave a job I was securing for
23 nine years to chase a dream when it obviously
24 just wasn't going to happen at that point in

1 time.

2 Q. So if these papers were signed in May
3 2020, give me your best estimate as to when
4 you decided we're not doing this?

5 A. Probably right around that time. I
6 probably had bids out already and nothing was
7 coming in. So right around that time we
8 decided.

9 Q. When you say right around that time,
10 do you mean May of 2020?

11 A. Yes. Because if you keep moving
12 forward, you still have to pay for your
13 insurances, you still have to pay for -- so at
14 some point we just really, you know, I was in
15 and out of the hospital, let's just cut our
16 losses and when I'm healthy again, I'll go
17 back to work.

18 Q. Did anyone from the union talk about
19 your intentions to start this business?

20 A. I might have told Bobby Bark and
21 Rodney about starting the business.

22 Q. Did anyone try to talk you out of
23 doing it?

24 A. No, they were more encouraging.

1 Q. When you had your conversation with
2 Ed Coppinger the day of the nominations
3 meeting, did you understand him to be
4 referring to your business plans at all?

5 A. No, not that I know of.

6 MS. DeBRUICKER: Thank you.

7 MR. PODRAZA: No further
8 questions. Thank you, Mr. Coppinger.

9 THE VIDEOGRAPHER: This
10 concludes Media No. 2 and the end of
11 the Videotaped Deposition of Michael
12 Coppinger. We are going off the
13 video record on September 24, 2021 at
14 6:50 p.m.

15 (Videotaped Deposition
16 concluded at 6:50 p.m.)

17

18

19

20

21

22

23

24

1 C E R T I F I C A T I O N

2
3 I, hereby certify that the
4 proceedings and evidence noted are contained
5 fully and accurately in the stenographic notes
6 taken by me in the foregoing matter, and that
7 this is a correct transcript of the same.

8
9
10
11
12 TANEHA CARROLL
13 Court Reporter - Notary Public
14
15
16
17

18 (The foregoing
19 certification of this transcript does
20 not apply to any reproduction of the
21 same by any means, unless under the
22 direct control and/or supervision of
23 the certifying reporter.)
24

Ex. M

LETTER OF ASSENT - A

In signing this letter of assent, the undersigned firm does hereby authorize¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division as its collective bargaining representative for all matters contained in or pertaining to the current and any subsequent approved² Inside Commercial labor agreement between the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and Local Union³ 98, IBEW.

In doing so, the undersigned firm agrees to comply with, and be bound by, all of the provisions contained in said current and subsequent approved labor agreements. This authorization, in compliance with the current approved labor agreement, shall become effective on the⁴ 12th day of May, 2020.

It shall remain in effect until terminated by the undersigned employer giving written notice to the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and to the Local Union at least one hundred fifty (150) days prior to the then current anniversary date of the applicable approved labor agreement.

The Employer agrees that if a majority of its employees authorize the Local Union to represent them in collective bargaining, the Employer will recognize the Local Union as the NLRA Section 9(a) collective bargaining agent for all employees performing electrical construction work within the jurisdiction of the Local Union on all present and future jobsites.

In accordance with Orders issued by the United States District Court for the District of Maryland on October 10, 1980, in Civil Action HM-77-1302, if the undersigned employer is not a member of the National Electrical Contractors Association, this letter of assent shall not bind the parties to any provision in the above-mentioned agreement requiring payment into the National Electrical Industry Fund, unless the above Orders of Court shall be stayed, reversed on appeal, or otherwise nullified.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

Coppinger Electric
⁵ Name of Firm

103 Lantern Way
Street Address/P.O. Box Number

Deptford NJ 08096
City, State (Abbr.) Zip Code

⁶ Federal Employer Identification No. 83-0518944

SIGNED FOR THE EMPLOYER

BY⁷ Stacy Coppinger
(original signature)
NAME⁸ Stacy Coppinger
TITLE/DATE Owner 5-12-20

SIGNED FOR THE UNION³ 98, IBEW

BY⁷ John J. Dougherty
(original signature)
NAME⁸ John J. Dougherty
TITLE/DATE Business Manager 5/12/20

INSTRUCTIONS (All items must be completed in order for assent to be processed)

¹ NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

² TYPE OF AGREEMENT

Insert type of agreement. Example: Inside, Outside Utility, Outside Commercial, Outside Telephone, Residential, Motor Shop, Sign, Tree Trimming, etc. The Local Union must obtain a separate assent to each agreement the employer is assenting to.

³ LOCAL UNION

Insert Local Union Number.

⁴ EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not use agreement date unless that is to be the effective date of this Assent.

⁵ EMPLOYER'S NAME & ADDRESS

Print or type Company name & address.

⁶ FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed by the employer with the Internal Revenue Service.

⁷ SIGNATURES

⁸ SIGNER'S NAME

Print or type the name of the person signing the Letter of Assent. International Office copy must contain actual signatures-not reproduced-of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENTS MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING. AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

Ex. N

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS



CONSTITUTION

AND RULES FOR LOCAL UNIONS
AND COUNCILS UNDER ITS JURISDICTION

as amended at the 39th IBEW Convention
St. Louis, Missouri, September 2016

shows good cause for not doing so. Seven (7) members in good standing shall constitute a quorum, provided the L.U. has a membership of seventy-five (75) or more. If the L.U. has less than seventy-five (75) members, then five (5) shall constitute a quorum.

Sec. 4. L.U.'s shall affiliate, or shall not affiliate, with state, provincial, central, or trades councils or bodies, as decided by the I.P.

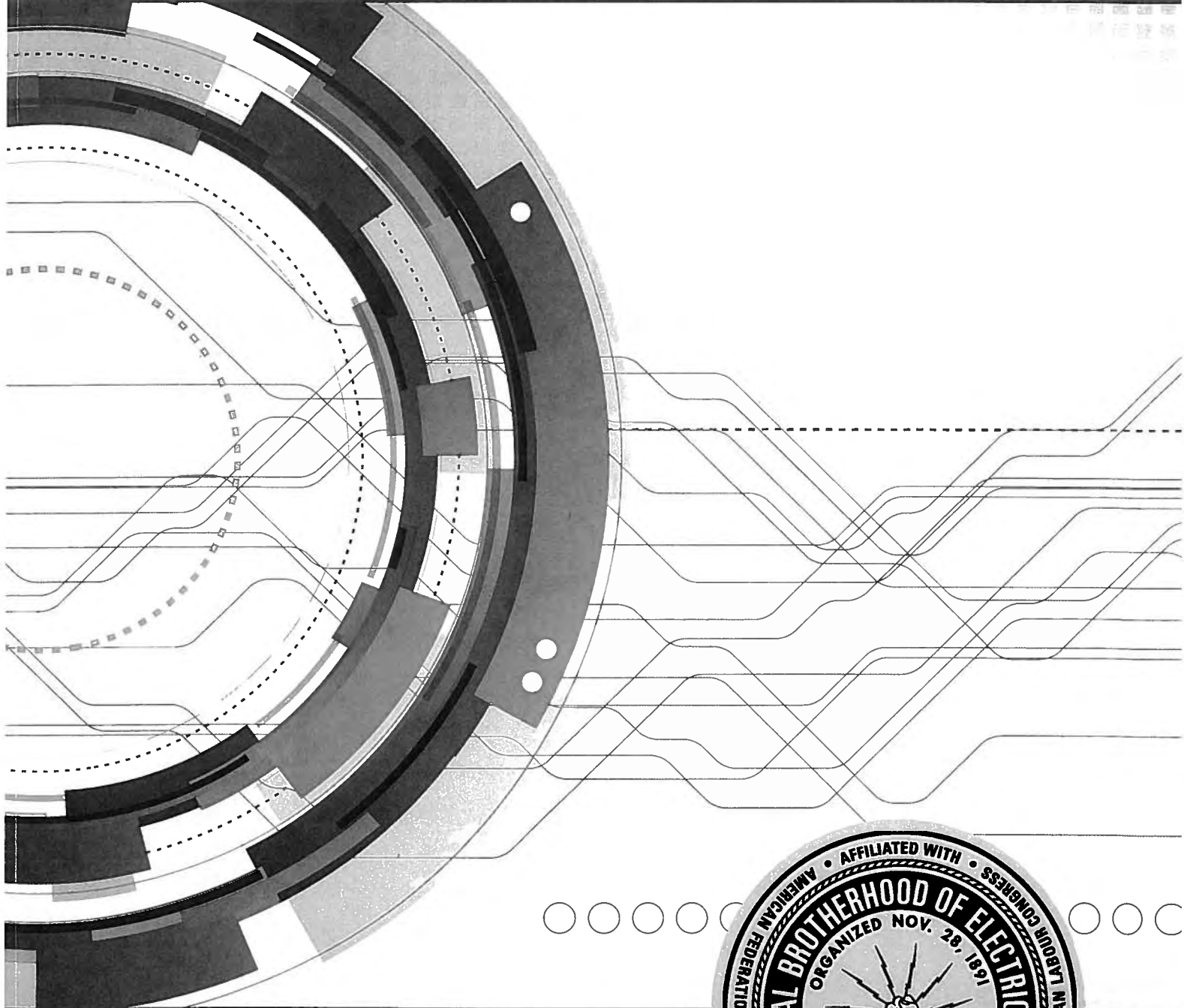
Sec. 5. No L.U. shall allow any member who becomes an electrical employer, a partner in an electrical employing concern, a general manager, or other managerial position, to hold office in the L.U. or attend any of its meetings, or vote in any election of a L.U. The L.U. may allow such a member to continue his membership in the L.U., or the member may apply to the F.S. for a withdrawal card. It shall require a majority vote at a meeting to grant such card. But the L.U. has the right to require such a member to take out a withdrawal card if it so decides.

Sec. 6. L.U.'s are empowered to make their own bylaws and rules, but these shall in no way conflict with this Constitution. Where any doubt appears, this Constitution shall be supreme. All bylaws, amendments and rules, all agreements, jurisdiction, *etc.*, of any kind or nature, shall be submitted to the I.P. for approval. No L.U. shall put into effect any bylaw, amendment, rule, or agreement of any kind without first securing such approval. All these shall be null and void without I.P. approval. The I.P. has the right to correct any bylaws, amendments, rules, or agreements to conform to this Constitution and the policies of the I.B.E.W. Bylaw amendments shall be submitted to the I.V.P. of that district, who will forward them to the I.P. with his recommendations.

Ex. O

Basic Laws & Policies

International Brotherhood of Electrical Workers®



MEMBER ELIGIBILITY TO VOTE AND HOLD OFFICE

No local union may allow any member who becomes an electrical employer, a partner in an electrical employing concern, or a general manager or other managerial position, to hold office in the local union or attend any of its meetings or vote in any of its elections. Because of the wide variety of employment practices in the industry, the determination of who is and who is not an employer must be made by the local union. Members who form their own electrical contracting business, control and operate these businesses, or make policy and management decisions will be considered employers and deemed ineligible to participate in local union affairs or elections.

Some IBEW members own stock in the companies that employ them but have no say in company policy or operations. They are not considered employers or partners, unless they own so large a proportion of stock that they significantly affect company policy or operations.

In general, members who are covered by an IBEW-negotiated collective bargaining agreement are entitled to vote in local union elections and participate in local union affairs. In the construction branch, members who work as foremen and general foremen are generally entitled to participate in local union affairs and elections.

When a member becomes an owner or a partner in an electrical employing concern, the local union shall determine whether the member shall retain membership in the local union or transfer membership to the International Office. If the local union permits the member to retain membership, such a member would not be permitted to attend meetings, hold any office in the local union, vote in any local union election, or vote on acceptance or rejection of the collective bargaining agreement.

PARLIAMENTARY RULES

Local union meetings should be handled expeditiously and in the most simple and direct manner. Accordingly, the parliamentary rules set forth in the IBEW

Constitution were designed to assist the chairperson in conducting a local union meeting and in handling procedural problems that may arise. Whether a local union meeting is regular or special, it should be well organized and intelligently run. Parliamentary procedure was designed specifically for this purpose.

A chairperson should be well-versed in the rules of order and should have patience, tolerance, impartiality, and good sense. These qualities will aid in conducting an orderly meeting and are more important than having an encyclopedic knowledge of parliamentary law. The chairperson should be familiar with *Robert's Rules of Order, Newly Revised*; the IBEW Constitution; and the local union bylaws. This is very important, as the chairperson will rule at times on questions of order and law. In this context, Parliamentary Rule Number 5 (Article XV, IBEW Constitution) provides that an appeal cannot be taken to the meeting from a ruling of the chairperson when a question of law is involved.

Any part of the IBEW Constitution or the approved local union bylaws and any decisions rendered by proper IBEW authority are questions of law, as dues to be paid by members and salaries of officers are questions of law. An appeal of the chairperson's ruling on all such questions of law would be out of order, and final determination as to the correctness of the ruling should be made by the International President.

One common problem is the matter of reconsideration of a question. The purpose of the motion to reconsider is the correction of a mistake made by a group or the reversal of action on a motion. It must be made and seconded by two members who voted with the majority. The procedure to be followed is set forth in Parliamentary Rule Number 6, Article XV.

When a motion to reconsider passes, the original motion in question is brought before the group as it was before the vote was taken, and debate about the motion continues. Members who exhausted their right to speak on the question during the original debate cannot speak again unless given permission by the body. No question can be reconsidered twice.

Ex. P

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION NO.
2:21-cv-00096

Hon. Gerald Austin McHugh

DECLARATION OF DON SIEGEL

I, Don Siegel, hereby declare and state as follows:

1. I submit this declaration based on my personal knowledge.
2. I reside at 103 Marble Drive, McMurray Pennsylvania 15317.
3. I am a member of IBEW for fifty (50) years, and have served in many positions, including as the Third District International Vice President, International Representative, Business Manager, and Executive Board Member. I also have served as vice president of the Pennsylvania AFL-CIO and on the boards of Team Pennsylvania Foundation and the Ben Franklin Technology Development Authority. Presently, I am President of Electrical Workers Without Borders, North America.
4. I am intimately familiar with the provisions governing signatory contractors under the Constitution of the IBEW and IBEW's Basic Laws & Policies with which all local unions of the IBEW must comply. I am familiar with them, and their applications, because I have enforced them and applied them throughout the fifteen (15) years that I served as the Third District International Vice President.
5. Article XV, Sec. 5 of IBEW's Constitution provides, "No L.U. [labor union] shall allow any member who becomes an electrical employer, a partner in an electrical employing concern, a general manager, or other managerial position, to hold office in

the L.U. or attend any of its meetings, or vote in any election of a L.U. The L.U. may allow such a member to continue his membership in the L.U., or the member may apply to F.S. [Financial Secretary] for a withdrawal card. It shall require a majority vote at a meeting to grant such a card. But the L.U. has the right to require such a member to take out a withdrawal card if it so decides.”

6. The “Member Eligibility To Vote and Hold Office” section of IBEW’s Basic Laws & Policies states, “No local union may allow any member who becomes an electrical employing concern, or a general manager or other managerial position, to hold office in the local union or attend any of its meetings or vote in any of its elections. Because of the wide variety of employment practices in the industry, the determination of who is and who is not an employer must be made by the local union. Members who form their own electrical contracting business, control and operate these businesses, or make policy and management decisions will be considered employers and deemed ineligible to participate in local union affairs or elections.”
7. The purpose for these provisions is to prevent conflicts of interest: conflicts which could prove to be harmful to the interests of the other members of the local union and IBEW.
8. In order to become a signatory contractor, a Letter of Assent must be completed between the local union and the contracting firm, and approved by the International President, IBEW.
9. The assent for the employer/contractor becomes effective on the date specified in the Letter of Assent.
10. I am aware that Coppinger Electric, LLC, an employer owned by Member Michael Coppinger and Stacy Coppinger, his wife, entered into a Letter of Assent with Local 98, IBEW, on May 12, 2020. A copy of the Letter is attached to this Declaration as Exhibit “A.”
11. The Letter of Assent between Coppinger Electric, LLC, and Local 98, IBEW, was approved by the International President on June 12, 2020, as evidenced by Exhibit “B” attached hereto.
12. The Letter of Assent specifies that its effective date was May 12, 2020.
13. The Letter of Assent also provides that, “It shall remain in effect until terminated by the undersigned employer giving written notice to the Penn-Del-Jersey Chapter, NECA, Philadelphia Division and to the Local Union at least one hundred fifty (150) days prior to the then current anniversary date of the applicable approved labor agreement.”

14. To date, the records of the Penn-Del-Jersey Chapter, NECA, Philadelphia Division establish that Coppinger Electric, LLC, has not served a written notice of termination to the NECA chapter as required under the Letter of Assent.
15. To date, Local 98's records establish that Coppinger Electric, LLC, has not served a written notice of termination to Local 98 as required under the Letter of Assent.
16. Effective May 12, 2020, through the date of this Declaration, Member Michael Coppinger was deemed ineligible to participate in local union affairs or elections, including running for or holding office in the local union, nominating other members for office in the local union, voting in any elections held by the local union, or attending any of the member meetings held by the local union.

Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED this 5TH day of OCTOBER, 2021.



Don Siegel

EXHIBIT “A”

LETTER OF ASSENT - A

In signing this letter of assent, the undersigned firm does hereby authorize¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division
as its collective bargaining representative for all matters contained in or pertaining to the current and any subsequent
approved² Inside Commercial labor agreement between the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and Local Union³ 98, IBEW.

In doing so, the undersigned firm agrees to comply with, and be bound by, all of the provisions contained in said current and subsequent
approved labor agreements. This authorization, in compliance with the current approved labor agreement, shall become effective
on the⁴ 12th day of May, 2020.

It shall remain in effect until terminated by the undersigned employer giving written notice to the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and to the Local Union at least one hundred fifty (150)
days prior to the then current anniversary date of the applicable approved labor agreement.

The Employer agrees that if a majority of its employees authorize the Local Union to represent them in collective
bargaining, the Employer will recognize the Local Union as the NLRA Section 9(a) collective bargaining agent for all
employees performing electrical construction work within the jurisdiction of the Local Union on all present and future jobsites.

In accordance with Orders issued by the United States District Court for the District of Maryland on October 10, 1980,
in Civil Action HM-77-1302, if the undersigned employer is not a member of the National Electrical Contractors Association, this letter of
assent shall not bind the parties to any provision in the above-mentioned agreement requiring payment into the National Electrical Industry
Fund, unless the above Orders of Court shall be stayed, reversed on appeal, or otherwise nullified.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

Coppinger Electric
⁵ Name of Firm

103 Lantern Way
Street Address/P.O. Box Number

Deptford NJ 08096
City, State (Abbr.) Zip Code

⁶ Federal Employer Identification No. 83-0518944

SIGNED FOR THE EMPLOYER

BY⁷ Stacy Coppinger
(original signature)

NAME⁸ Stacy Coppinger

TITLE/DATE Owner 5-12-20

SIGNED FOR THE UNION³ 98, IBEW

BY⁷ John J. Dougherty
(original signature)

NAME⁸ John J. Dougherty

TITLE/DATE Business Manager 5/12/20

INSTRUCTIONS (All items must be completed in order for assent to be processed)

¹ NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

² TYPE OF AGREEMENT

Insert type of agreement. Example: Inside, Outside Utility, Outside
Commercial, Outside Telephone, Residential, Motor Shop, Sign, Tree
Trimming, etc. The Local Union must obtain a separate assent to each
agreement the employer is assenting to.

³ LOCAL UNION

Insert Local Union Number.

⁴ EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not
use agreement date unless that is to be the effective date of this Assent.

⁵ EMPLOYER'S NAME & ADDRESS

Print or type Company name & address.

⁶ FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed
by the employer with the Internal Revenue Service.

⁷ SIGNATURES

⁸ SIGNER'S NAME

Print or type the name of the person signing the Letter of Assent.
International Office copy must contain actual signatures-not repro-
duced-of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENTS MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING.
AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW
DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE
COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

EXHIBIT “B”

LETTER OF ASSENT - A

In signing this letter of assent, the undersigned firm does hereby authorize¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division
as its collective bargaining representative for all matters contained in or pertaining to the current and any subsequent
approved² Inside Commercial labor agreement between the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and Local Union³ 98, IBEW.

In doing so, the undersigned firm agrees to comply with, and be bound by, all of the provisions contained in said current and subsequent
approved labor agreements. This authorization, in compliance with the current approved labor agreement, shall become effective
on the⁴ 12th day of May, 2020.

It shall remain in effect until terminated by the undersigned employer giving written notice to the

¹ Penn-Del-Jersey Chapter, NECA, Philadelphia Division and to the Local Union at least one hundred fifty (150)
days prior to the then current anniversary date of the applicable approved labor agreement.

The Employer agrees that if a majority of its employees authorize the Local Union to represent them in collective
bargaining, the Employer will recognize the Local Union as the NLRA Section 9(a) collective bargaining agent for all
employees performing electrical construction work within the jurisdiction of the Local Union on all present and future jobsites.

In accordance with Orders issued by the United States District Court for the District of Maryland on October 10, 1980,
in Civil Action HM-77-1302, if the undersigned employer is not a member of the National Electrical Contractors Association, this letter of
assent shall not bind the parties to any provision in the above-mentioned agreement requiring payment into the National Electrical Industry
Fund, unless the above Orders of Court shall be stayed, reversed on appeal, or otherwise nullified.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

Coppinger Electric
⁵ Name of Firm

103 Lantern Way
Street Address/P.O. Box Number

Deptford NJ 08096
City, State (Abbr.) Zip Code

⁶ Federal Employer Identification No. 83-0518944

SIGNED FOR THE EMPLOYER

BY Stacy Coppinger
(original signature)

NAME⁸ Stacy Coppinger

TITLE/DATE Owner 5-12-20

SIGNED FOR THE UNION³ 98, IBEW

BY John J. Dougherty
(original signature)

NAME⁸ John J. Dougherty

TITLE/DATE Business Manager 5/12/20

APPROVED
INTERNATIONAL OFFICE - I.B.E.W.

June 12, 2020

Lonnie R. Stephenson, Int'l President
This approval does not make the
International a party to this agreement

INSTRUCTIONS (All items must be completed in order for assent to be processed)¹ NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

² TYPE OF AGREEMENT

Insert type of agreement. Example: Inside, Outside Utility, Outside
Commercial, Outside Telephone, Residential, Motor Shop, Sign, Tree
Trimming, etc. The Local Union must obtain a separate assent to each
agreement the employer is assenting to.

³ LOCAL UNION

Insert Local Union Number.

⁴ EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not
use agreement date unless that is to be the effective date of this Assent.

⁵ EMPLOYER'S NAME & ADDRESS

Print or type Company name & address.

⁶ FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed
by the employer with the Internal Revenue Service.

⁷ SIGNATURES⁸ SIGNER'S NAME

Print or type the name of the person signing the Letter of Assent.

International Office copy must contain actual signatures-not repro-
duced-of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENTS MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING.
AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW
DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE
COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

Ex. Q

U.S. Department of Labor

Office of Labor-Management Standards
Philadelphia-Pittsburgh District Office
Mailstop OLMS/21
1835 Market Street
Philadelphia, PA 19103-2968
(215) 861-4820 Fax: (215) 861-4849



DATE: October 13, 2020

TO: 140-6019880(01)

FROM: *Angela Menges*
Angela B. Menges
Investigator

SUBJECT: International Brotherhood of Electrical Workers (IBEW) Local 98
1701 Spring Garden Street
Philadelphia, PA 19130
LM: 001-938

RE: Signed Statement of Local 98 Member/Complainant Charles Battle

On the above date, PHIPGHDO District Director Megan Underwood and I met with IBEW Local 98 member/Complainant Charles Battle at the PHIDO for the purpose of obtaining a signed statement (**see attachment**). Battle voluntarily agreed to provide the signed statement. Battle reviewed the content of the signed statement prior to signing. Prior to signing, OLMS discussed the purpose of the statement with Battle and advised him OLMS is conducting an official investigation pursuant to the LMRDA.

[REDACTED]

[REDACTED]

[REDACTED]

IBEW Local 98
October 13, 2020
Page 2 of 2



Attachment:

Signed statement of Complainant Charles Battle, October 13, 2020.

STATEMENT

I, Charles Battle, residing at 8710 Lykens Lane, Philadelphia, PA 19128, make the following voluntary statement to Angela B. Menges and Megan Underwood who have identified themselves to me as Investigators of the Office of Labor-Management Standards, U.S. Department of Labor. Investigators Menges and Underwood have advised me that they are conducting an official investigation for the U.S. Department of Labor, Office of Labor-Management Standards, pursuant to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA).

I, Charles Battle, have personal knowledge of all of the facts in this statement.

I am employed as an electrician for Shaeffer Electric. I have been a member of IBEW Local 98 for 30 years.

I was going to run for president on a slate with Timothy McConnell and Michael Coppinger, both of whom intended to run for the executive board positions. I did not campaign because I did not want to tip my hand and get blowback from the local. My family would have been harassed, and I would have received phone calls from members and officers asking, "What are you doing?"

I have stood up during membership meetings and said some hard words for Business Manager John Dougherty. It's a disgrace the way the union is being run. It's a problem when members don't have a voice or say and are told 'Do as I say and shut up.'" Business Agent Bobby Bark has called me numerous times in the past after membership meetings asking, "What are you doing? Why are you asking questions?"

I got calls from Bark after the November 2019 membership meeting and after the January and February 2020 meetings. Bark also came to my job site and harassed me on two occasions. Bark showed up at my home after a membership meeting in January 2020 where I stood up and asked Dougherty if the local was going to get back money it had donated to a man who actually stole it. I was working in my garage when I received a phone call from Bark saying he wanted to speak with me. Bark told me he was standing in my driveway. My wife was scared because a union officer showed up at our house. I agreed to go out with Bark to get him away from the house.

One week before the nomination meeting, Bark wanted to talk with me over beers and I told him no. I kept asking Bark what he wanted, but Bark would not say. On Sunday, June 7, 2020 — two days prior to the nomination meeting — my doorbell rang at 8:30 p.m. Bark showed up unannounced and uninvited. I asked him, "What are you doing? I made it clear do not come to my house for this B.S.!"

Bark wants to know why I'm so upset with the union. I've said to Bark, "I can't ask questions without being harassed." Bark wants to know why I'm questioning their leaders, and I've told him I'm a dues-paying member and I have a right to do so. Ask any person in the local — they're afraid to stand up and ask questions. They're petrified of what's going to happen because you're not going to work. I'm currently working because my contractor knows Dougherty and

Initials: CB

how he operates. However, I know guys who have been out of work two years because of Dougherty. One such member is Rob Mission. Once the unemployment rate gets so high, we go to a 50/50 list and solicit our own job (SOJ). You can't take a job unless the hall hires four guys off the list. If you take it, the contractor is going to pay a price, so the contractor is not going to hire you.

On June 7, 2020, the Sunday before the nomination meeting, I learned that McConnell and Coppinger, my intended running mates, were not going to run for office. McConnell told me that Dougherty talked to McConnell on the phone and said, "You're either with us or against us. If you're against us, it'll be a long three years."

I entered the union hall at 4:50 p.m. on June 9, 2020, and was handed a nomination slip by Local 98 Attorney Tara Chupka. The nomination slip asked for the name of the nominee and the office for which he was being nominated; the name, signature, and card number of the nominator; and the name, signature, and card number of the nominee. I completed the slip with my own information and gave the slip to Chupka. Coppinger, who was supposed to nominate me, had not yet arrived at the union hall to complete the nominator portion of the form. I told Chupka when my nominator arrived, he would fill out his portion. I did not tell Chupka the name of my nominator.

Word quickly spread that I had submitted my nominating slip. After I submitted the slip, I sat in my truck to wait until the nomination meeting began at 7:00 p.m. Ten minutes after submitting my slip, member David Kelly called and asked me if I was running for president. Kelly lives in Flourtown, Pennsylvania. I was blown away that the news had reached Flourtown so quickly. CB ~~Sitting in my truck, I saw~~ business agents going around talking to the crowd that had gathered. Member Dominic Bassiano ^{Pharo} said the business agents told him they heard he was going to nominate me for office. Bassiano had no idea I intended to run for office. I think the agents were fishing to find out who was doing what.

I sat in my truck until 6:40 p.m. and then went to the hall to meet up with members John Kerr and Phil Borthwick, who were among those gathered outside the union hall. At 6:50 p.m., Coppinger called Borthwick and told him he was not coming to nominate me. It was at that point CB I learned that Coppinger had been intimidated out of ~~running~~ ^{Nominating} for office. Sometime between 5:00 and 6:50 p.m. on June 9, 2020, Coppinger received a phone call from his uncle, Ed Coppinger. Ed Coppinger used to be a Local 98 business agent. Dougherty had called Ed Coppinger, who relayed the message to his nephew Mike Coppinger. Mike Coppinger was told his career would be finished if he ran. Mike Coppinger is young and has a wife, child, and mortgage — a lot at stake.

When we learned Coppinger was not coming, Kerr and Borthwick expressed willingness to nominate me instead. However, I was scared for them. I told Borthwick, "We're cows walking to the slaughterhouse." We would have to walk the gauntlet, down a walkway past 300 guys to the hall. With this in mind, as well as both of my running mates now out of the race and having just learned Coppinger was not coming to nominate me, I was intimidated. I saw how aggressively they were trying to find out who nominated me. Out of 3,500-4,000 members in the local, they zeroed in that fast. I told Kerr and Borthwick, "Let's just leave and deal with this another day." Kerr later told me he was glad I decided not to run. I didn't know at the time that I could

Initials: CB

nominate myself. If I'd known that, there's not a chance I'd put anyone else or their career in jeopardy. They'd already be out of work by now if they had gone through with nominating me.

I left at 7:05 p.m. without attending the meeting or attempting to do so. The local has a pattern of intimidating people out of running. If they're on the outs with a guy, the hall will tell the contractor, "The next five guys we send you are bums," so the contractor fires the guys. The owner of contractor Par 4 is good friends with McConnell and told McConnell this.

I declare under penalty of perjury that the foregoing statement consisting of three pages, each of which I have initialed, is true and correct.

10-13-2020
Date

Charles Batts
Signature

10-13-2020
Date

My U.S.
Witness Signature

10/13/2020
Date

Angela Menges
Witness Signature

Signed at: OLMS-170 S. Independence Mall West, Suite 7600
Location Philadelphia, PA 19106

Initials: CB

Ex. R

William Trask

From: DeBruicker, Lauren (USAPAE) <Lauren.DeBruicker@usdoj.gov>
Sent: Friday, August 6, 2021 2:42 PM
To: Joseph Podraza
Cc: William Trask
Subject: RE: Secretary/Local 98

Thanks. We do not have a statement by Coppinger. (I will confirm in a more formal response to your discovery letter in the next few days).

- Lauren

From: Joseph Podraza <jpodraza@lambmcerlane.com>
Sent: Friday, August 6, 2021 2:37 PM
To: DeBruicker, Lauren (USAPAE) <LDeBruicker@usa.doj.gov>
Cc: William Trask <wtrask@lambmcerlane.com>; Joseph Podraza <jpodraza@lambmcerlane.com>
Subject: Re: Secretary/Local 98

Thanks. No luck with Coppinger despite repeated attempts. Do you folks have a statement to DOL by Coppinger? Joe

Sent from my iPhone

On Aug 6, 2021, at 2:29 PM, DeBruicker, Lauren (USAPAE) <Lauren.DeBruicker@usdoj.gov> wrote:

Thanks, Joe. I will be attending; Anna Laura Bennett from DOL will participate by phone. Any updates on Coppinger?

Lauren DeBruicker
215.764.2231 (M) | Lauren.DeBruicker@usdoj.gov

From: Joseph Podraza <jpodraza@lambmcerlane.com>
Sent: Friday, August 6, 2021 12:02 PM
To: DeBruicker, Lauren (USAPAE) <LDeBruicker@usa.doj.gov>
Cc: Joseph Podraza <jpodraza@lambmcerlane.com>; William Trask <wtrask@lambmcerlane.com>
Subject: Secretary/Local 98

Lauren:

Could you let me know who will be attending the upcoming depositions for the Plaintiff so I may notify security? Thanks and have a nice weekend. Joe

This e-mail contains PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the Individual(s) named above. If you are not the intended recipient of this e-mail, or the employee or agent responsible for delivering this to the intended recipient, you are hereby notified that any dissemination

or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at 610.430.8000 or notify us by e-mail at info@lambmcerlane.com.

This e-mail contains PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the Individual(s) named above. If you are not the intended recipient of this e-mail, or the employee or agent responsible for delivering this to the intended recipient, you are hereby notified that any dissemination or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at 610.430.8000 or notify us by e-mail at info@lambmcerlane.com.

Ex. S

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 98, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS,

Defendant.

CIVIL ACTION NO.
2:21-cv-00096

Hon. Gerald Austin McHugh

DECLARATION OF ED COPPINGER

I, Ed Coppinger, hereby declare and state as follows:

1. I submit this declaration based on my personal knowledge.
2. I reside at 2712 Elysia Lane, Audubon, Pennsylvania 19403.
3. I was a member of IBEW, Local 98 for forty-seven (47) years, and over the years held many positions with the Union, including positions on the Union's Executive Board, Labor Management Committee, and Health and Welfare Fund.
4. In or about early June 2020, I believe June 5, 2020, I received a telephone call from a member of the Union while I was golfing at the Stone Harbor Golf Club, 905 Route 9 North, Cape May Court House, New Jersey 08210.
5. The member called to give me a "heads up" that Michael Coppinger ("Michael"), my cousin's son, was involved with certain other Union members who were believed to be agitators.
6. I was surprised that Michael might be associating with such members who I considered to be troublemakers, or guys with just personal grievances who have no interest in or clue on how to run or operate a Union.

7. After receiving the call, I called Michael.
8. I told Michael that I got a call from a Union member who was concerned about him (Michael) getting involved with members who are interested only in their personal interests, and not the Union's. I said to Michael that by being involved with such members, he was only hurting the Union.
9. I told Michael that I was hearing that he might be involved with the website, which had inflammatory comments that were harmful to the Union, and that he was holding meetings at his house with these self-serving members.
10. Michael denied any involvement with the website or having any such meetings at his house.
11. I told Michael that I had put a lot of hours and time into the Union, and because of these efforts our name is well respected in the Union.
12. I reminded Michael that he carries the Coppinger name, and I told him he should not disgrace our name by allowing himself to be manipulated by other members who have their own agendas.
13. I additionally asked him, "Why would you (Michael) want to get into someone else's problems? And why would you get involved with anyone who was just acting for selfish, personal reasons?" I believe Michael understood that the someone I was referring to was Member Charlie Battle.
14. Michael assured me that if he had any issues with the Union he would speak directly with the Business Manager. He even gave me an example when he did go directly to the Business Manager and, according to him, the problem was resolved after he had done so. The issue dealt with healthcare coverage under the Union's policy.
15. When I spoke with Michael I had no idea he (Michael) might be considering running, or nominating another member, for an elected office with the Union, and it was not raised in the earlier call I received while at the golf course. Michael and I did not speak about any nominations, elections or running for office.
16. Michael and I never discussed the June 2020 nominating proceeding or the election. And it is untrue that I called Michael to deliver a message from John Dougherty that Michael's career would be finished if he ran for office. Any suggestion that I did would be laughable.
17. I believed Michael when he told me he was not associated with these other members or the website, and we ended our call, which had only lasted about 5-8 minutes.

Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED this 16th day of September, 2021.

DocuSigned by:

Ed Coppinger

05C6AC8C0093459...

Ed Coppinger

Ex. T

U.S. Department of Labor

Office of Labor-Management Standards
Philadelphia-Pittsburgh District Office
Mailstop OLMS/21
1835 Market Street
Philadelphia, PA 19103-2968
(215) 861-4820 Fax: (215) 861-4849



DATE: October 15, 2020

TO: 140-6019880(01)

FROM: 
Angela B. Menges
Investigator

SUBJECT: International Brotherhood of Electrical Workers (IBEW) Local 98
1701 Spring Garden Street
Philadelphia, PA 19130
LM: 001-938

RE: Signed Statement of Local 98 Member Philip Borthwick

On the above date, PHIPGHDO District Director Megan Underwood and I met with IBEW Local 98 member Philip Borthwick at the PHIDO for the purpose of obtaining a signed statement (**see attachment**). Borthwick voluntarily agreed to provide the signed statement. Borthwick reviewed the content of the signed statement prior to signing. Prior to signing, OLMS discussed the purpose of the statement with Borthwick and advised him OLMS is conducting an official investigation pursuant to the LMRDA.

Attachment:

Signed statement of Philip Borthwick, October 15, 2020.

STATEMENT

I, Philip Borthwick, residing at 4002 Pechin Street, Philadelphia, PA 19128, make the following voluntary statement to Angela B. Menges and Megan Underwood who have identified themselves to me as Investigators of the Office of Labor-Management Standards, U.S. Department of Labor. Investigators Menges and Underwood have advised me that they are conducting an official investigation for the U.S. Department of Labor, Office of Labor-Management Standards, pursuant to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA).

I, Philip Borthwick, have personal knowledge of all of the facts in this statement.

I am employed as an electrician for the Gordon Group. I have been a member of IBEW Local 98 since October 1996.

After Charles Battle began asking questions at membership meetings in November 2019, people began to talk. Battle, Timothy McConnell, and Mike Coppinger all wanted to see change in the union. About six months before the nomination meeting, little garage meetings were held. In our neighborhood, we might've had 15 people at our garage meeting. Coppinger told me he had 60 to 80 guys show up at his garage meeting. McConnell was in the middle like me. McConnell eventually said, "Maybe I'll jump in," meaning run for office. McConnell is more knowledgeable than most members and understands politics.

Someone leaked about the garage meetings and it got back to Dougherty. Dougherty said, "Stop everything. I want to know what's going on." Dougherty sent his business agents to Coppinger and they asked him, "What's going on? Why are you having these meetings?" They did not realize Coppinger was thinking of running for office.

or Coppinger PB.

I was trying to keep Battle and McConnell a secret, but eventually I decided to connect them with each other. When Battle appeared to be moving ahead with his plans to run for office, I said to him, "Mike's in. Why don't you guys talk to each other? You know, strength in numbers." I did not know which position Battle wanted until the last minute. You have to keep quiet because Dougherty will put the fire out before it even starts. You're better off leaving it until the very end because they'll discredit you right off the bat. It happened so fast — Dougherty got to Battle through other guys. That's how far he'd go to make sure these guys didn't run.

No one was going to try to take Dougherty's position. Battle was going to run for president. The president and vice president positions are the weakest; they rubber stamp everything. Dougherty has them all in his pocket. McConnell was going to run for an executive board position. I thought Coppinger was also going to run for an executive board position, but Coppinger never really said it. Coppinger was the key because he and Battle have great reputations. Everyone thought, If Coppinger runs, that's the game changer. Coppinger is a great guy and is very funny. If anyone scares the union the most, it's him because he's so well-liked — he comes with votes. He was the biggest one they wanted to shut down because of those votes. McConnell knows a lot of people, but not as many as Coppinger and Battle.

Initials: PB.

I arrived at the union hall on June 9, 2020, around 5:00 or 5:30 p.m. There were about 150 people on the grounds of the union hall that night, all from Dougherty's neighborhood. That's what Dougherty does — he fills the hall with his supporters. I knew from the nomination notice that members had to give advance notice if they wanted to attend the meeting. They had to go into the building where all the business agents were. Battle entered the building and filled out a paper. They knew he was coming; they expected it. After he filled out the paperwork, Battle was nervous and pacing, wondering what was coming.

I stayed on the grounds of the union hall until about 7:30 or 8:00 p.m. I was waiting for Coppinger to arrive, as it was still up in the air with guys going in to get nominated. I knew at that point McConnell was not coming. Coppinger showed up minutes before the meeting started. Battle was really counting on Coppinger to nominate him. If there was anyone they couldn't shake, it would be Coppinger. Coppinger knows everyone. When Coppinger showed up, he called McConnell and told him, "I'm out," meaning he was not going to run for office. Coppinger never put his paperwork in to run.

I called Battle, who was in his car, and told him Coppinger was out. Battle was angry that they had gotten to Coppinger. The only saving grace was only a few people knew who was nominating Battle. I told Battle, "We're like lambs going to slaughter." Battle told me, "I don't want to put you or your job in jeopardy," and I respected him for that. If OLMS were to supervise a rerun election, I would nominate Battle.

Kerr also backed out of nominating Battle because Kerr was scared. I did not know who was going to nominate McConnell or Coppinger. I would have nominated them until I saw what happened to Coppinger. Coppinger looked scared to death. ~~I'd never have thought. If someone jumped me or wanted to fight me, Coppinger would be all in.~~ But Coppinger does not have a lot of money. He's got three kids, a mortgage. What would he do without benefits? I wondered why Coppinger even put up a fight to begin with. *P.B.*

I thought about Kenny Rocks. I thought, What'll happen to me in a month or six months down the line? I'm usually the last to be laid off, then suddenly I'd be the first — like Kenny Rocks. Rocks suffered retaliation after an OLMS-supervised election in 2014. Rocks had protested the initial election to OLMS and was ultimately a defeated candidate in the supervised election. Rocks was out of work for quite a bit and had a hard time getting work. This was a retaliatory measure by the union. Dougherty doesn't care about you or your family. He chokes you off financially and lets everyone know. No one has ever opposed Dougherty. Rocks was the only one ~~in 20 years.~~ *SINCE I WAS IN THE LOCAL TO EVER CHALLENGE DOC. P.B.* McConnell and Coppinger were both intimidated out of running for office. The union figured out who was who by calling around. McConnell told me he got a phone call one or two days before the nomination meeting from Dougherty. Dougherty never calls from his own phone. They all have burner phones. We joke and call them the "Bat phones." When McConnell got the phone call, he called Coppinger. McConnell said he was on the phone with Dougherty for about an hour. He said at first the call was cool — everything was fine. They were talking politics and Dougherty was talking about what direction he was going. He was talking to McConnell because McConnell knows people. McConnell said Dougherty was reading the website "The Truth About Your Local.com" and suddenly started cursing. He said to McConnell, "Make your effing mind up — you're either with me or against me!"

Initials: *P.B.*

Brian Eddis, a politician, delivered a message to McConnell from Dougherty: "You've got a lot of years left and you won't be working for a lot of them." McConnell is also friends with an electrical contractor who owns a company called Par 4. They said we'll run this guy out of business if McConnell runs for office. I could tell McConnell was shaken — I could hear it in his voice he was scared. I asked McConnell, "You're not even going to *try* to run?" McConnell said, "Nope. I'm out."

I called Coppinger after the nomination meeting. I know who talked Coppinger out of it and what they said. Coppinger has been with a contractor for nine years, which is unheard of, and he could not risk losing that. I have never had anything happen to me personally. I don't feel physically threatened because I can handle a physical altercation. But you don't do it to a guy financially.

I declare under penalty of perjury that the foregoing statement consisting of three pages, each of which I have initialed, is true and correct.

10/15/20
Date

Philip Bottum
Signature

10-15-20
Date

My Utb
Witness Signature

10/15/2020
Date

Angela Menger
Witness Signature

Signed at: OLMS-1835 Market St., 21st Fl., Philadelphia, PA
Location
19103

Initials: P.B.

Ex. U

Tara Chupka

From: magapie <magapie@comcast.net>
Sent: Monday, October 24, 2016 12:53 PM
To: JJDoc@ibew98.org
Subject: Son in law

Hey John its Charlie Battle just dropping you a reminder about my son inlaw Joshua Vincent DeLong thanks for everything

Battle

Sent from my Verizon, Samsung Galaxy smartphone



Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Tuesday, May 30, 2017 8:52 AM
To: jjdoc@ibew98.org
Subject: son in law

Hello JD greetings from Poland hope things are good with you and all is well back in Philly just a friendly reminder my son in law is trying for the third year to get in to program his name is Joshua Vincent Delong I also spoke to someone from Miller Bros they said they are willing to put him on as a helper if it was ok with hall thanks for everything

Best Regards

Charlie Battle

Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Friday, June 9, 2017 7:08 AM
To: jjdoc@ibew98.org
Subject: [No Subject]

Joshua Vincent Delong

Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Friday, September 22, 2017 3:22 PM
To: jjdoc@ibew98.org
Subject: Hello

Hello John from Poland hope things are good back in philly I really miss the food.

Anyhow I just wanted to remind you of my son inlaw he's trying to get into the local, this is his 3rd trying he's a good guy that would work hard and be a good asset for our great local his name is Joshua Vincent Delong.

Hope your doing well and thanks for all the hard work and hours you put in

Charlie Battle

Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Friday, September 22, 2017 3:22 PM
To: jjdoc@ibew98.org
Subject: Hello

Hello John from Poland hope things are good back in philly I really miss the food.

Anyhow I just wanted to remind you of my son inlaw he's trying to get into the local, this is his 3rd trying he's a good guy that would work hard and be a good asset for our great local his name is Joshua Vincent Delong.

Hope your doing well and thanks for all the hard work and hours you put in

Charlie Battle

Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Tuesday, September 24, 2019 5:57 PM
To: jjdoc@ibew98.org
Subject: Joshua Vincent DeLong

Hello John Its Charles Battle I hope all is well with you and your family.

I know you are extremely busy with everything going on but I'm Writing you this email to ask for your help, its 5 years in and I'm still trying to get my son inlaw in the program. We just had a brand new apprentice start on our job on Monday and I'm worried that my son inlaw will be passed up again. If there is anything you can do to help this situation it would be greatly appreciated.

Thanks Charles Battle

Tara Chupka

From: JEANETTE BATTLE <magapie@comcast.net>
Sent: Saturday, September 28, 2019 1:05 PM
To: jjdoc@ibew98.org
Subject: Charles Battle

Hello John Its Charles Battle I hope all is well with you and your family.

I know you are extremely busy with everything going on but I'm Writing you this email to ask for your help, its 5 years in and I'm still trying to get my son inlaw in the program. We just had a brand new apprentice start on our job on Monday and I'm worried that my son inlaw will be passed up again. If there is anything you can do to help this situation it would be greatly appreciated.

Thanks Charles Battle

Tara Chupka

From: magapie <magapie@comcast.net>
Sent: Monday, September 30, 2019 9:58 AM
To: jjdoc@ibew98.org
Subject: Charles Battle

Good Morning

My son inlaws name is Joshua V. Dilong

Thanks John. I really appreciate this

Charlie

Sent from my Verizon, Samsung Galaxy smartphone

Tara Chupka

From: magapie <magapie@comcast.net>
Sent: Friday, November 15, 2019 11:02 AM
To: jjdoc@ibew98.org
Subject: Charles Battle

Hey John hope all is well with you.
I writing a follow up email for my son in law
We still didn't hear back from anyone. His name is Joshua Vincent Delong.

Thanks again Charles Battle

Sent from my Verizon, Samsung Galaxy smartphone

Tara Chupka

From: magapie <magapie@comcast.net>
Sent: Wednesday, November 27, 2019 12:00 PM
To: JJDoc
Subject: Re: Charles Battle

General construction like a handy man for someone

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: JJDoc <JJDoc@ibew98.org>
Date: 11/27/19 11:14 AM (GMT-05:00)
To: magapie <magapie@comcast.net>
Subject: Re: Charles Battle

That was ,,,,,WHAT is he doing now ???

Sent from my iPhone

On Nov 27, 2019, at 11:12 AM, magapie <magapie@comcast.net> wrote:

John here is my son inlaws name again.
Joshua Vincent Delong

Thanks

Sent from my Verizon, Samsung Galaxy smartphone

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. Neither this information block, the typed name of the sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.

Ex. V

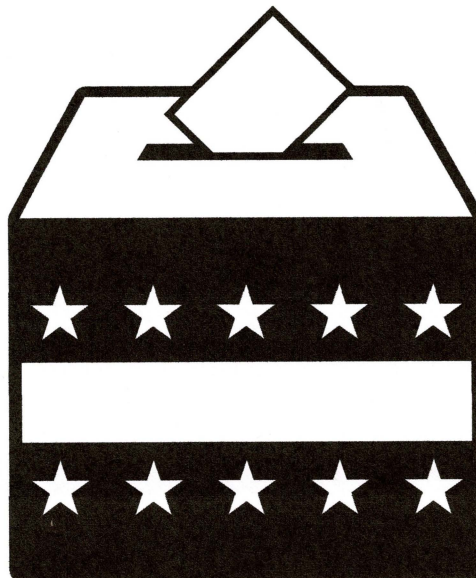


Ex. W



2016

U.S. LOCAL UNION ELECTION GUIDE



International Brotherhood of Electrical Workers®

IBEW® U.S. Local Union Election Guide

Members of the International Brotherhood of Electrical Workers (IBEW) in the United States are regularly afforded the most fundamental of democratic rights: the right to vote for representatives of their choice who will lead their union. This freedom to vote is a continuation of the principles of the IBEW, guaranteed by our Constitution and local union bylaws, with local union elections taking place every 3 years. The purpose of this guide is to assist local union Election Boards in conducting these elections.

The rules that govern the election procedure are contained in the following:

- Labor-Management Reporting and Disclosure Act of 1959 (LMRDA)
- IBEW Constitution
- IBEW Basic Laws & Policies
- Local union bylaws

These publications play an integral part in the election of union officers, and it is important to be aware of the relationships among them.

The LMRDA contains those provisions that are mandated by law. Many of the guidelines referenced in the LMRDA are already incorporated into the IBEW's rules concerning elections in its constitution and in local union bylaws. Even though the LMRDA includes some explicit rules, it also gives the union some leeway in addressing certain issues. Among other things, the LMRDA requires unions to comply with their own constitutions and bylaws when conducting local union elections. Violations of the election procedure contained in the IBEW Constitution or local union bylaws might therefore be a violation of federal law.

Article XVI of the IBEW Constitution addresses election issues of a more general nature, whereas those contained in Article III of the local union bylaws are more specific. Although it is important to adhere to the LMRDA, the IBEW Constitution, and the local union bylaws, decisions must also be made on a basis of equality and fairness to guarantee a successful, trouble-free election. The rules must be the same for everyone, with all candidates treated equally. There should be no variation in your interpretations of the rules.

After the election judge and tellers have been appointed or elected, per the local union bylaws, the election judge assumes authority over the election process. It is the responsibility of the election judge to oversee the conduct of the election until the election results are certified. Only members in continuous good standing for 2 years are eligible to serve as election judges or tellers.

NOMINATIONS

Nominations for officers shall be held in the month of May of the election year unless the International President grants permission or the local union bylaws state otherwise. The local union shall decide the manner in which the nominations and elections shall be held, and such shall be stated in the local union bylaws.

No member shall be nominated for office unless he or she is present or signifies his or her willingness in writing. Written acceptance of a nomination must be presented at the meeting when nominations are held. Members who are not in attendance can make or accept nominations by written letter. A member is eligible for nomination only if in continuous good standing for the 2 years immediately prior to nominations. No member may be a candidate for more than one office. Anyone nominated to more than one office must choose the office for which he or she will be a candidate. **Members can nominate themselves for office.**

All local union bylaws provide that notice of nominations and elections must be mailed to the last known home address of all members in good standing in the local union at least 20 days prior to the date of nominations. (A sample notice is included at the end of this guide.)

A single notice shall be used for notification of both nominations and elections. The notice shall state the following:

- Offices to be filled and/or the number of delegates to the International Convention to be chosen
- The date, time, and place for nominations
- The proper form and manner for nominations
- The date, time, and place of the election

Where local union bylaws require that a candidate receive a majority of the votes cast to be elected, notice of the

Ex. X



Tim McConnel >

Mon, Jun 8, 5:59 PM

Yo I am thinking about running for e-board I'm not on a team and just wanted to let you know that I had nothing to do with the web site I swear on my kids I'm just doing it for the better of the local hope there is no hard feelings. I'm not trying to make waves just think anyone should be able to run without repercussions if anyone wants to call me I'm free to talk

Mon, Jun 8, 7:33 PM

Yo I'm out I thought about it and I'm 100% against what happened on that website and don't want to be tied in with that just wanted a different face



iMessage



D 00284

Ex. Y

**U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS**
REPORT OF INTERVIEW

John Dougherty, 1933 East Moyamensing Avenue, Philadelphia, PA 19140 (residence), (215) 409-5532 (cell), in the presence of IBEW Local 98 attorneys Joseph Cleary and Bill Josem of Cleary Josem & Trigiani LLP, IBEW Local 98 in-house counsel Jack O'Neill, and attorney Terence Grugan of Ballard Spahr LLP, provided the following information when interviewed at the International Brotherhood of Electrical Workers (IBEW) Local 98 building:

Dougherty has been a member of IBEW Local 98 since 1979 or 1980. From March 1990 to July 13, 1993, he held an executive board position. From July 13, 1993 to the present he has been the business manager. Dougherty is employed by Local 98. His job as business manager is to create employment opportunities for members of Local 98. When asked whether employers Local 98 bargains with hire and fire members based on his recommendations, Dougherty stated, "No. Absolutely no."

The attorneys objected to Dougherty being questioned about nomination procedures, stating they believed he was going to be questioned only regarding the intimidation allegations. The attorneys were advised all questions were going to be asked and that they were free to object to each question. They allowed the interview to proceed, but Attorney Josem stated it was not a "good start."

Dougherty advised self-nominations for union officer positions are permitted during elections. Dougherty did not know the last election cycle during which a member self-nominated. When asked how self-nominations can be made, Dougherty stated, "Just get nominated at the nomination meeting." When asked whether a self-nomination must be made in writing, Dougherty stated, "I've never followed the specifics of that," and "members are free to speak at meetings."

Dougherty then interjected, "For example, Charlie Battle said he was not running about two months before. He said at a meeting he'd never run against me or the president because we do a good job." Dougherty did not know whether this was documented in the meeting minutes, but it was understood by the 200-300 members who were at the meeting. Dougherty believed Battle stated this at the April 2020 membership meeting. Dougherty added, "Charlie created havoc. He was walking down the middle of the room like this – " [Dougherty raised his arms and extended his middle fingers]. "He was the only person in 30 years I've ever seen do that."

When asked how members are made aware that self-nominations can be made, Dougherty stated, "I've never really been involved in the day-to-day activities with how they run nominations." Dougherty did not know where it was stated in the union's governing documents or how members were made aware that nominations must be made in-person. He stated, "My whole time in the union, everyone's always known when elections are. There's always tons of people here for elections. Charlie Battle was here. I saw him. I said 'hi' to him. He had 6 to 10 people with him – from Phil Borthwick on down – who could've nominated him."

Interview Date: November 19, 2020 **Date Drafted:** November 19, 2020 **Date Completed:** November 19, 2020

Interview Location: Philadelphia, PA

By: Investigator Angela B. Menges and Sr. Investigator Nicole Spallino **Case File:** 140-6019880(01)

RI – John Dougherty
November 19, 2020
Page 2 of 15

Dougherty advised Battle could have nominated himself but that it was “pretty much understood” based on what Battle stated at the membership meeting and from “talk on job sites” that he was not running. Dougherty advised Battle did not need a nominator or second nominator.

Dougherty was advised Battle submitted his nomination form indicating his willingness to accept nomination for president prior to 5:00 p.m. on the day of the nomination meeting. Dougherty was asked what other step(s) Battle was required to take to be nominated for the office of president. He was also asked where in the union’s governing documents the requirement of the additional step(s) is stated. Dougherty replied, “I have no idea. That’s why we have election boards.”

When asked why members who were not attending the nomination meeting were gathered in the parking lot outside the union hall prior to the nomination meeting and whether Dougherty contacted anyone to rally members to the parking lot for a show of support, Dougherty replied, “I let people know we were having nominations – whoever I’d see or talk on the phone with. I’ve been doing that for 30 years.”

When asked whether Dougherty directed any member or staff to speak with members in the parking lot prior to the nomination meeting, he replied, “They were doing what they always do. People come down, they get something to eat or drink.” The union provided food trucks and hand sanitizer for the event. Dougherty noted some members only see each other every three years during the elections.

When asked why business agents were attempting to find out which member was nominating Battle for office, Dougherty replied, “I don’t know that to be the case. That’s normal – people want to know who’s running. If you’re assuming business agents were going around, in a business agent capacity, that’s absolutely not true. That’s the first time I’ve heard that.” Dougherty added, “This is a pretty family-driven union, social – that’s the reason 1,000 people were here that night. People were thanking me, shaking my hand...”

When asked how many people attended the nomination meeting, Dougherty replied, “Whatever the stipulations were. It was highly posted.” Dougherty attended the nomination meeting and estimated there were 30 to 50 people at the meeting. When asked why they were there, Dougherty replied, “They were either there in support – it’s never been limited. If someone nominated someone or wanted to speak about anything...” When asked to clarify his statement that nomination meetings have never been limited but that attendance was limited at the June 2020 nomination meeting, Dougherty advised the reason for limiting attendance was due to the CDC recommendations regarding COVID-19.

Dougherty explained the “magnitude” of three events in his life: the birth of his baby, saving his father’s life after his father passed away and was revived, and “looking around the union hall after I won the business manager position the first time. The union has an unbelievable amount of respect – everyone treats everyone fair.”

When asked whether it is stated in any of the union’s governing documents that the union must permit nominees to see the names of the other nominees, Dougherty replied, “No. I don’t know any of that.” Dougherty was asked about Complainant Battle’s request to see the nominees’ forms and the reason his request was denied. Dougherty replied, “I don’t know. I have no idea why he’d want to do that.”

RI – John Dougherty
November 19, 2020
Page 3 of 15

Dougherty did not think anyone else was permitted to see the forms. When asked whether Dougherty's co-candidates saw the nominee forms, Dougherty replied, "I'd imagine if Charlie didn't see them, no one saw them." Dougherty explained IBEW Local 98 employee Tara Chupka [Dougherty's daughter] was filling in that day until Sergeant-at-Arms Rodney Walker arrived at the union hall. Nominees probably got their forms from Chupka and handed them back to Chupka after completing them.

Dougherty did not speak with anyone about their nomination form submission. When asked whether Dougherty directed anyone to contact people who had submitted the forms, Dougherty replied, "I had no contact with anyone about anything about the election, other than showing up. I made sure everything they did, they did by the book." Dougherty added, "People weren't running to win. They were running to tear the union down and to tear me down personally. They've been doing it since 2014. I've never once shown disrespect to anybody."

Dougherty was asked how, after Battle submitted his nomination form indicating his willingness to run for president, other members who were not previously aware he was running for president became aware that he was running for president. Dougherty replied, "I didn't know he was running for president. I never saw anything until later." Dougherty interjected, "We just got a 1050 contract [Dougherty was not asked for clarification] – the best healthcare in the world – full employment – I put us back to work during COVID faster than any other industry, OSHA adopted our procedures that I put in place, the health and welfare fund will not have any increases for three years, we faced the opioid crisis and resolved it... There is not any member out there who will tell you they have any issue with anything, unless they have an alternate agenda." Dougherty added that in his many years as a business manager he has received complaints, but members are content right now.

When asked to clarify what he meant about an "alternate agenda," Dougherty explained, "Charlie Battle was walking around with copies of the indictment [against Dougherty and other Local 98 officials]. His agenda is to destroy the union." Dougherty explained, "Charlie's step-son [whom Dougherty later referred to as his son-in-law and son] got dismissed, ok? For failing a drug test, ok? And he [Battle's step-son] may have been associated with distributing drugs too." Battle was putting a "lot of pressure" on Business Agent Robert Bark – one of Battle's "best buddies" – to get Battle's step-son into the union. Dougherty noted Battle has three million dollars that he refers to as his "fuck you money."

Dougherty also explained when Battle worked in Poland, Battle came up with a policy on how he thought he should have been given back his union dues. Another electrician who was working there with him tried to do this five times and went through thorough legal reviews which determined he should not be given back his union dues. Dougherty explained there were "multiple issues" Battle had and that Battle "burned" his relationship with Bark.

Dougherty added, "There was even that sexist, racist, disrespectful website that was anonymous that Charlie and his wife paid for. There are not only two sides – there's a right side and a wrong side." Dougherty learned about Battle's involvement with the website after the June 2020 nominations. When asked what he thought Battle was so angry about, Dougherty explained, "I just couldn't do what Charlie wanted me to do." Dougherty added, "I understand he's been drinking an awful lot – a tremendous

amount.” When asked how he knows this, Dougherty explained he knows people Battle drinks with and that Bark is one of them.

Dougherty added that Battle called him at night and he returned the call, and then Battle ran around saying Dougherty did not return his call. Dougherty stated, “I’m a man who gets death threats at home. I’m not one bit surprised Charlie didn’t run and that he went to the government. His intention was not to become an officer but to use a campaign to post an indictment online and run around saying things.”

Dougherty advised he asked Battle one day at a membership meeting to tell him one thing he is upset about structurally because Dougherty cannot say anything on the floor during a meeting about Battle’s step-son. Dougherty stated, “All of a sudden Charlie’s becoming very angry, very disrespectful, flicking his finger at people’s faces, coming out of Kelliann’s Bar into meetings...” When asked what Battle’s response was to Dougherty’s question, Dougherty stated Battle did not answer and was just screaming, “You don’t want to hear...” Dougherty explained Battle behaved in this way during at least three membership meetings. Battle approached Dougherty about his step-son during a meeting as recently as six months before the June 2020 nomination meeting.

Dougherty was asked whether there was a “buzz” about Battle submitting a nomination form and how Dougherty knew about it. Dougherty replied, “I don’t know. I wanted an election. I don’t have a problem if someone runs because it gives you six weeks’ chance to say things you can’t otherwise say, to tell the stories,” meaning a campaign.

Dougherty was asked whether anyone, including Chupka, told him Battle submitted a nomination form. Dougherty replied, “No. Nobody cares! Listen, I got \$10.50/hour raises. How many unions do that?” Dougherty heard “later” that Battle had submitted a nomination form. Dougherty added, “All I was waiting for was the excitement of getting up and giving an acceptance speech, talking about the union – we just had the best three years in the union. If my wife wasn’t sick, it would’ve been the best three years in 30 years.”

Dougherty was asked when he learned that members other than incumbent officers planned to run for office. Dougherty advised he had a conversation with Tim McConnell the night before the nomination meeting, at which point he learned McConnell had an interest in running for office. Dougherty stated, “I have all these young guys around me all the time who want to know who’s retiring. There are only so many positions in the union. I try to get more people involved about having full-time people not sit on the board so there are more opportunities for more people. I opened it up. I hired outside people to run the allied assistance program, the political side...” Dougherty was asked about the elected positions and he replied, “I don’t control elected positions.”

When asked who specifically Dougherty has spoken with who may have had an interest in running for office, Dougherty replied, “Kids in my neighborhood talk to me all the time. I stop by the apprentice program and they say to me, ‘Someday when my kids get a little older...’ – a ton of people.” Dougherty was not able to name any members he spoke to about running for office, aside from Tim McConnell. Dougherty told McConnell not to get involved for the sake of raising his hand and that he “has to want it.” Dougherty explained McConnell never comes to meetings. Dougherty got to know Safety

Coordinator Mark Lynch because Dougherty has walked with Lynch and his wife during Labor Day parades. Dougherty told McConnell “you gotta do stuff like that” and that he needs to become more involved with the union.

Dougherty was asked why he felt the need to tell McConnell these things and Dougherty replied, “Because he asked my opinion. He called Mark Lynch and said he wanted to talk to somebody and that somebody was me.” Dougherty explained someone once advised him, “If you want to do something, do it right then and there,” so he spoke with McConnell.

Dougherty and Lynch were at a “powwow” outside the union hall the night before the nomination meeting when McConnell called Lynch. Dougherty wanted to gather everyone together to discuss plans in the event they needed to campaign. He advised everyone, for example, there could be no politics on the job site and that they would have to get separate phones if they ran because union phones cannot be used to campaign.

McConnell said he was thinking about running for office, and Dougherty told him, “Great. What would you be running for – as an independent or on a ticket?” McConnell told Dougherty he did not yet know. McConnell mentioned something along the lines of, “If there’s a chance you might not be around, I’d like to be a business agent.”

Dougherty was “pretty sure” McConnell is “really good friends” with Business Agent Rodney Walker. Walker’s son drives to work with McConnell. Dougherty thought McConnell’s wife is related to the Gillespie family. Pat Gillespie was a former Philadelphia Building and Construction Trades Council business manager. Dougherty stated, “There were a lot of reasons I’d take a moment or two to help him out because he’s green; he doesn’t come to meetings.”

When asked whether Dougherty thought McConnell wanted his advice, Dougherty replied, “Yeah, and I think he was hoping – he sits on the beach in North Wildwood – in five square blocks there are guys, like Jim Foy who’s my nephew – who all know each other. Timmy never expressed interest in running.” [Around this point, Dougherty removed his face mask. He removed it and replaced it several more times, usually as he took phone calls.]

During his telephone conversation with McConnell the night before the nomination meeting, McConnell told Dougherty Battle approached him about running. Dougherty believed McConnell and Battle worked on four or five jobs together. Dougherty stated, “I said, ‘make sure you’re on a campaign that helps and not hurts the union.’” Dougherty added, “Charlie just wanted to run a campaign for six weeks about the indictment.” He continued, “The kid’ll tell you I told him to run,” meaning McConnell.

Dougherty had a second phone conversation with McConnell on the same night. Dougherty explained, “Whoever was handing me a phone... I talked to a lot of people that night.” Dougherty stated, “I want everybody to run, but to follow the rules and laws.” He explained around the time of his conversation with McConnell, an anonymous website was started that said Dougherty was holding meetings with agents and, “I guess he’s gonna hide behind his sick wife.” Dougherty described the statements on the website as “sexist, racist stuff.” McConnell told Dougherty, “I don’t want anything to do with this.”

RI – John Dougherty
November 19, 2020
Page 6 of 15

Dougherty told McConnell, “They’re talking about my wife. I want you to take a look at what they’re doing.” Dougherty described the site as an “anonymous thing just to rip apart my family.”

When asked why McConnell changed his mind about running, Dougherty replied, “I wanted him to run. I had no problem if he ran. He’s a nice guy, a smart guy. I don’t think he understood he was being played a little bit.” Dougherty told McConnell there are a lot of other opportunities for him. Dougherty stated, “I just want these kids not to be used. I don’t care who runs. I’ve taken this union from bankruptcy to hundreds of millions of dollars in surpluses – 90% of unions have nowhere near the resources.” Dougherty went on to talk about “Johnny Crock of Shit” [a Facebook user] who alleged “a million things” on social media sites such as Facebook.

Dougherty then mentioned Local 98 member Ken Rocks. He stated, “Every little thing I do – the Convention Center – Kenny Rocks made a big stink over what I did.” Dougherty explained Rocks would go to a go-go bar called the Handle Bar with members from a carpenters union and would call Dougherty from there late on a Friday or Saturday night. Rocks worked across the street from the union hall for two years as a foreman. Dougherty stated, “He waves to me. And then he gets all banged up [drunk] during work days.” This occurred in 2016, 2017 or 2018 after the last election.

Dougherty then raised his voice and stated, “I want them to understand! Ken Rocks says he’s being discriminated against – a contractor does not want his foreman all banged up! When they talk about, ‘Oh my God, whoa is me.’ He [Rocks] told me to come on down – I took pictures – he posted it on Facebook – I visited him on the last job at his job site. I do a lot of work with Rock Ministries. He shook my hand.” Dougherty proceeded to read aloud a Facebook message on his phone posted by Rocks, “12:52 8/28 – about an article in the paper about the lawsuit against Charlie: ‘Let it go or I’ll do something with ya... I’m still waiting for you to admit... Stop using union funds to rig elections... Pussy...’”

At this point the attorneys interrupted Dougherty and questioned the relevance of reading the Facebook postings. Dougherty stated, “Let me keep reading. ‘I heard what you said. I heard the wire taps... Back off of Battle or else... Is this another kangaroo court?... Free the membership... You’re pathetic, weak... You’re mismanaging things...’” In regards to Rocks’ Facebook messages, Dougherty stated, “This ain’t a game.”

Dougherty was asked why Rocks seemed to think Dougherty is “messing up” his life. Dougherty replied, “I’ve helped him his whole life.” He added [while putting his face mask back on], “I think he’s got demons.” Dougherty added, “Kenny’s dad died a few years ago. I went to his father’s funeral. His family gave me hugs. Kenny nodded to me. I went to his father’s funeral, ok?” Dougherty added, “There was never an intent to have an election. No one ever thought anyone was going to win anything.”

Dougherty was asked again about his conversation with McConnell. Dougherty had told all the business agents and other people who worked for him to meet outside the union hall at 6:00 p.m. to go over nominations the next night. He stated, “I’m hearing we might have some competition. I’m looking

RI – John Dougherty
November 19, 2020
Page 7 of 15

forward to it. But we may have to raise some money.” Dougherty heard Phil Borthwick told someone he might run for a position, but Dougherty did not discuss it with Borthwick.

When Dougherty spoke on the phone with McConnell, he was within earshot of others who were gathered outside the union hall. Brian Eddis and Rodney Walker were in the immediate vicinity. They knew Dougherty was speaking with McConnell, but they did not participate in the conversation. Dougherty did not speak with Eddis or Walker about McConnell.

Dougherty was uncertain how Eddis knew McConnell but thought Eddis may have mentioned they knew each other through Alcoholics Anonymous or something of that nature. Eddis and McConnell are both from the Fox Chase vicinity.

Dougherty was asked which business agent remarked during his conversation with McConnell that he never thought that McConnell would have been the member running for office. Dougherty replied, “Most people don’t know who he [McConnell] is.”

Dougherty had never talked with McConnell prior to that phone call because McConnell does not come around. Dougherty noted McConnell is on a big job with a good friend of Dougherty’s. Dougherty “pops in” on jobs as he does with all the trades.

Dougherty was asked whether his intention in talking with McConnell was to persuade him to withdraw from running. Dougherty replied, “Never. I told him at least three times if he wants to run, run. I did ask him what would be his campaign – what was he uncomfortable with. He said he wasn’t uncomfortable with anything.” Dougherty explained there had been some issue with spousal health benefits for a short time that McConnell may have mentioned, but the issue had been addressed. McConnell said something in a “very naive way” along the lines of, “If something happens to you, if the business agents aren’t around...”

Dougherty was asked whether he told McConnell, “You’re either with us or against us. If you’re against us, it’ll be a long three years.” Dougherty replied directly and without hesitation, “No, I didn’t say that.” He added, “Because Tim was a nervous wreck on the phone. I told him, ‘There’s a hundred kids who wanna do what you’re doing, there just aren’t the opportunities.’” Dougherty explained there are only five executive board positions.

Dougherty told McConnell, “Most people are only gonna remember that you said, ‘Marita Crawford takes it in the butt’ and ‘we’re hiring too many of those guys’ meaning Latinos.” Dougherty explained these were statements made on the anonymous website. He was not implying McConnell made the statements, only that he would be associated with them if he ran with that campaign.

Dougherty explained his first conversation with McConnell the night before the nomination meeting was a “very nice” conversation. The second conversation took place about an hour later. That was when Dougherty told McConnell, “This is the direction the campaign is going. I don’t think you wanna be associated with that. Run as an independent. I ran as an independent.” Dougherty noted McConnell is

about 33 years old, which is about the same age Dougherty was when he became an officer. Dougherty advised McConnell to talk with his wife. Dougherty explained, “I missed a lot of piano recitals.”

Dougherty explained word got out they were having a meeting at the union hall the night before the nomination meeting. Dougherty explained they did not have any meetings prior to that and that holding a meeting was what they would normally do. They held the meeting to discuss safeguards for the nomination meeting. It was that night Lynch showed Dougherty the anonymous website. Lynch thought it would be a good idea to call McConnell. Lynch knew McConnell, so Dougherty respected his decision.

McConnell asked Dougherty whether [Vice President] Timmy Browne was running for office and Dougherty said “yes.” Dougherty stated, “Tim [McConnell] thought he would have a better chance at becoming a business agent if I went away.” Dougherty was asked to clarify whether he said “business agent” or “business manager.” He clarified he said “business agent” but added, “Hey, whoever wants it can have it.”

Dougherty reiterated that during his conversations with McConnell he explained the “reality,” that if he ran with a ticket he would “spend the whole time being a sexist, racist,” etc. Dougherty stated, “Ninety-eight percent of the local is happy with what goes on. They have better healthcare, better benefits. He’d probably never win an election again if he ran with that ticket.” Dougherty added they have an apprentice training program that is second-to-none. He stated, “Tim couldn’t even tell me what committees we have.” Dougherty added that he believed Battle is trying to “punish” him for not bringing his step-son back into the union.

Dougherty was asked whether he had any contact with Eddis about the union election in the days leading up to nominations, specifically with regard to McConnell. Dougherty replied, “No, I never talked to him. I didn’t talk to anybody about the election about anything.” Dougherty explained their jobs are pretty time-consuming, working nights, lunch hours, and on weekends. He stated, “Some of these kids coach kids, are involved in church activities, have pregnant wives...” He added, “I was looking for a platform to get out there and tell my story.”

Dougherty was asked whether he thought he was not going to have any opposition in the 2020 election. He said, “Nah” and went on to talk about his wife and how he was up at 2:00 a.m. getting her probiotics and taking a urine sample because of catheter infections, how he found out that day his father has COVID-19. Dougherty stated, “You think I care about a kid who doesn’t have a snowball’s chance in hell of winning?” Dougherty was asked, “Then why talk to him [McConnell]?” and he replied, “I talk to everybody.”

Dougherty went on to talk about Local 98 member Kevin O’Sullivan who, the night before he retired, said to Dougherty, “I beat the crap out of you and you never came after me.” Dougherty noted O’Sullivan “went off the railroad” when his wife died; he became an alcoholic. Dougherty said, “I called him a hundred times and said, ‘Please go to work tomorrow.’” Dougherty added, “The last election, you would’ve thought I didn’t like Kevin O’Sullivan – I love Kevin O’Sullivan.” Dougherty

helped O’Sullivan when his wife was sick and they needed money. Dougherty noted he once paid some tuition on behalf of O’Sullivan.

Dougherty noted he got Rocks a lawyer when Rocks first “got in trouble.” Dougherty said, “It’s no problem. It goes with the territory.” Dougherty stated, “Now you understand why I wanted to meet with you guys.” Dougherty noted, “Never once did I say anything to Kenny when he attacked me.”

Dougherty was asked whether he has ever heard any contractors complain about Rocks. He replied, “I don’t do management.” He was asked whether he has had conversations with employers and he stated, “Absolutely not.” Dougherty was specifically asked whether he spoke with any employer regarding McConnell’s candidacy. He answered, “No. I don’t know who he’s even working for.”

The IBEW International in its investigation did not contact Dougherty to ascertain his description of the phone calls with and alleged intimidation of McConnell. Dougherty had “no idea” whether the IBEW International in its investigation contacted any witnesses to the phone calls.

Dougherty was asked why McConnell was laid off from his employer last month. He replied, “Where was he laid off at? I have no idea. He can work wherever he wants.” McConnell was working at “The W,” but Dougherty did not know for whom McConnell was working. There are a lot of contractors working there who are wrapping up the jobs. At one time there were 800 people working there. There were 100 Local 98 members at Penn, and now there are 30. The casino job and Amazon job are wrapping up. About 800-900 Local 98 members are going to be laid off soon. Dougherty stated, “If Tim was laid off, he’s probably one of many.”

Attorney Josem explained members get work through a referral system and can also can solicit their own jobs. When the unemployment level is high, the union goes to a mandatory 50/50 system. Members can sit on the referral list if they want to and not solicit their own jobs. Dougherty noted many members took four weeks off and went to the shore when COVID-19 happened.

Dougherty was asked whether he contacted McConnell’s employer or directed someone else to contact McConnell’s employer to have him laid off, and he stated, “No.” Attorney Josem advised members are laid off all the time, especially if they are not working with a contractor for many years. Josem asked the other attorneys to check the records to see where McConnell is working.

Dougherty was asked whether he spoke with any other potential candidates who were not incumbents. He replied, “I had guys – John Donohue who works with me now – organizers – guys who would love to be president or vice president someday.” Dougherty did not know who intended to run for office. Dougherty was asked whether he spoke with Borthwick about running for office, and he said, “No. My history with Phil – I helped Phil. He is the only person who ever left the apprentice program and came back – because of drugs. I helped him multiple times.”

Dougherty was asked whether he directed any of his co-candidates to speak with other potential candidates to dissuade/talk them out of running. He responded, “Let me tell you what I did that night. My wife – I made some medicine at 2:00 a.m., got up at 4:00 a.m., rushed home, mixed the medicine...

RI – John Dougherty
November 19, 2020
Page 10 of 15

Do you think that I care who ran for executive board? I was actually looking forward to running so I could expose all the frauds out there. Everybody runs to you guys now.”

Dougherty was asked whether he spoke with anyone – business agents, any other current or former officers, union member, employers, or anyone – in an attempt to persuade them, or their friend/associate/relative, not to run for office. Dougherty responded, “no” but was looking down at his phone and seemed not to be paying attention. He was advised the questioning would pause and wait for him to finish. He replied that he was working on a multi-million dollar job but was paying attention and advised the questioning could continue.

Dougherty was asked for his response to the allegations that nominees and nominators did not seek office or nominate out of fear of reprisal from the current administration. He replied, “Oh stop, will you please? It’s nonsense, it’s nonsense, it’s nonsense.” He continued, “Did Charlie tell you his son got thrown out? He put his finger up, stood on the floor and said he’s not gonna run for office. He told me he’d beat the shit outta me one day. I said, ‘Why don’t you talk to your friend Bobby Bark?’ And Charlie said, ‘Bobby Bark ain’t my friend anymore.’”

Dougherty stated, “Jack Kelly came to me and said, ‘Charlie thinks he’s not getting in because he’s African-American.’ I told Jack, ‘You helped him write the letter.’” Dougherty explained Dan Prendergast and Jack Kelly were very prominent in the local. Battle told Dougherty, “I was on your team until you didn’t help my son.” Dougherty explained everyone knows he [Dougherty] believes in legalizing marijuana, but that is no reason for a kid to start using it.

Dougherty was asked whether he was aware of any other members who claimed they did not make nominations because of fear/intimidation, and he replied, “No.”

Battle and Bark had been friends for many years. Dougherty knew this because they talked about it all the time. There were three to five of them who always hung out and went to the shore together all the time. They used to be “out for days together.” Dougherty explained he tries to have representatives on his staff who can communicate with the whole union. He stated, “The rodeo guys, the bikers – Barkie is my connection to that.” Bark was “devastated” because he was not present at the meeting when Battle said they were no longer friends. Bark told Dougherty that he and Battle had Thanksgiving dinner together at Battle’s home last year. Dougherty believed their friendship to be a continuing friendship up to at least Thanksgiving. He stated, “Bark believed they were friends.”

Dougherty told Battle, “If you don’t think I’m not returning your call – I have this Blackberry – you wanna set something up to look at stuff – I told him, ‘Why don’t you go to Bark and set something up?’”

At this point during the interview, the attorneys advised the union records reflect McConnell solicited his own job with Shaeffer Electric on October 26, 2020. Dougherty remarked, “I bet he’s working with Charlie Battle. Charlie is running the job at Children’s Hospital.” Dougherty added that there are a lot of ways he could “play stupid games legally.” He stated, “I don’t play with anyone’s job.”

Dougherty was asked about Bark's response when he learned Battle wanted to run for office. [Dougherty requested and was granted a short break to address numerous phone calls he was receiving about the multi-million dollar job he was working on.]

Upon his return to the interview, Dougherty was reminded he had stated McConnell told him during their phone conversation the night before the nomination meeting that Battle was going to run for office and was again asked what Bark's response was when he learned that. Dougherty did not remember his specific conversation with Bark. Dougherty explained, "Barkie is a different type of guy. He's not a big talker –" [Attorneys Josem and O'Neill laughed at Dougherty's remark.] Dougherty explained, "He's not a big drama guy. He's a no-nonsense type, a rough kid, a street kid – he grew up on 30th and Tasker. He's a very good business agent, but he's not very political."

Dougherty was asked about Bark's visit to Battle's home prior to the nomination meeting. Dougherty heard after-the-fact about the visit. Dougherty said to Bark, "You yourself said something was wrong, so stay away." Dougherty said, "He got told to stay away." Dougherty stated, "He's been a career friend of his and now he's treating him like a – I still believe Bark is dazed and confused and doesn't understand what happened to their relationship." Dougherty thought Battle just wanted Bark to help him with regard to his step-son. Dougherty would not have any involvement if a member such as Battle's step-son was dismissed from the apprentice program.

Dougherty was asked why Bark would have brought Rich Kee with him to Battle's house. Dougherty explained Kee was another good friend of Bark's and Battle's and that they used to go out all weekend together. Dougherty stated, "I helped Kee get help. He's from the same neighborhood I'm from."

Dougherty was asked to clarify how recent the friendship was between Battle, Bark and Kee. He believed they were going out together up until a year ago. They would drink in Battle's garage, at the Corner Bar, and they would get guys together after work to play cards or play ball.

When asked whether Dougherty thought Bark's intention was to persuade Battle to withdraw from running or to withdraw from nominating others, he replied, "I don't know what was in Barkie's mind. When he did go there, I told him, 'Don't go there ever again.'" Bark could not understand why Battle seemed so angry – it happened "out of nowhere." Dougherty was again asked whether Bark was trying to talk Battle out of running for office, and he replied, "Nah. It seemed like after Poland, there must've been more drinking." Dougherty's understanding was that after Battle filled out the paperwork to run for office, three hours later he was still at Kelly's Bar drinking; he never left the bar.

Dougherty was asked for his response to the allegation that Battle was intimidated by Bark to not run for office. Dougherty responded, "Are you kidding? Charlie's a big guy, a tough kid. Bobby Bark might not be capable of that. Charlie is bigger, more aggressive." Dougherty noted he thought all three [i.e., Battle, Bark and Kee] were on their second or third wives. Dougherty added, "If you said to me Bobby Bark is going to Charlie's house, I'd have told him not to go."

Dougherty continued, "Nobody's upset about an election. The membership is ecstatic. The union is booming. My big fear about an election is people participating because then it'd be over. You're

RI – John Dougherty
November 19, 2020
Page 12 of 15

winning elections left and right, doing everything right. The members sometimes get complacent like, 'Eh, I'm not gonna vote. They're doing great.' No one's gonna win anything. No one cares about elections. They care about the union doing great."

Dougherty was asked whether he has ever directed any business agents in any capacity to talk to a member about a problem. He responded, "If I thought a member had a problem or a drug problem or was out until 5:00 a.m., I might say, 'Hey, go make sure he's ok.'" It would be all work-related.

Dougherty has known Rocks for about 20 years since Rocks has been a member of Local 98. Dougherty was advised Local 98's attorneys had provided Rocks' work history since the 2014 election. Dougherty was asked why there was a gap in Rocks' employment between May 2015 and February 2016. Dougherty was asked whether he had any idea why that was, and he replied, "Nah, no. If Kenny wanted to work, he would've worked. He's a good electrician – a little rough around the edges."

Dougherty was asked whether he directed Rocks' employer, Union Electric, to lay him off in May 2015. Dougherty responded, "I can't tell you the last time – I wouldn't even know." He was asked, "Is that a 'no'?" Dougherty looked directly at the investigator and replied with a smirk, "You know that's a 'no.'" Dougherty was asked whether he directed someone else to tell Rocks' employer to lay him off, and he replied, "Absolutely not."

Dougherty was asked whether he directed any other employers not to hire Rocks during his period of unemployment, and he replied, "Absolutely not." Dougherty was asked whether he directed someone else to tell employers not to hire Rocks, and he replied, "Absolutely not. I never talked to anybody about any job, ever." Dougherty was asked whether he helped Rocks to obtain employment in 2016, and he replied, "No."

Dougherty was asked whether he ever directed Business Agent Mark Bennett or any other officers or staff to go to Rocks' home. Dougherty advised Bennett was never a business agent. He added, "Do you know Mark Bennett? He's 5'2" and – no offense – built like a bowling ball. Kenny would tell Mark, 'Get outta here.'" Dougherty explained Bennett was a steward. Dougherty was asked, "Is that a 'no'?" He replied, "That's absolutely a 'no.'" Dougherty continued, "Let me give you some context. Kenny is 6'4" and 250 pounds. He's a rough kid, goes to go-go bars, hangs with bikers, he's tough as nails. Mark scares easily." Dougherty added, "There's a continuing pattern here. Somebody's misleading you on almost everything."

Dougherty was asked about Rocks' lapse in employment and whether it was connected to Rocks running for office in the 2014 election. Dougherty stated, "I didn't even know he was out of work. I spend most of my day on issues like this [pointing to his phone] – tax code, contracts, COVID assistance."

Dougherty had "no idea" when he learned Rocks intended to run for office in the 2014 election. Dougherty stated, "Kenny probably told me. I don't care what he does. It doesn't hurt my feelings a bit. Guys he's running against might be offended." Dougherty reiterated Rocks "rips" people apart on social media, he's "all banged up," and goes to go-go bars. Dougherty noted Rocks' profile photo on his Facebook account for a long time was a picture of Dougherty with his hands up like Richard Nixon with

a quote, “I’m a crook!” Dougherty said, “Kenny’s been doing this for years. I laugh and tell him, ‘Would you grow the hell up?’”

[Dougherty requested and was granted another short break to address phone calls.] Upon his return Dougherty stated, “I’ve never taken anybody’s job. I’ve never thought to even call anyone. Charlie and Kenny don’t need me to get a job. They’re good mechanics, good electricians. If there was a lapse, it’s because they wanted it.”

Dougherty was asked about the nature of the disciplinary hearing and the \$50,000 fine which was imposed against Rocks in June 2014. Dougherty stated, “I don’t know what it was about. I wasn’t a part of it.” Dougherty was advised he was the one who preferred charges against Rocks. He replied, “I probably filed it. I wasn’t part of the hearing. Kenny threatened to kill me a couple times. He went bonkers for a couple weeks.” Dougherty was asked whether he ever filed a police report. He did not file a police report, but Rich Ross (the police commissioner at the time) and a representative from Homeland Security told Dougherty they were legitimate threats. Dougherty guessed they “picked it up on a wire.” Dougherty stated, “It didn’t bother me. I still did what I wanted to do.”

The attorneys interjected several times that they were “blindsided” with this and that they would like to see records of the charges. They objected to Dougherty being asked to remember something that happened many years ago without having any records to review. The attorneys were advised records were not available to review at that time and that the matter was raised in the presence of the attorneys during prior officer interviews.

Dougherty was again asked about the charges against Rocks, but he stated he did not know. He stated, “You can’t go around saying you’re gonna kill somebody.” Attorney Josem advised there are limits to free speech rights under the Landrum-Griffin Act.

Dougherty was asked whether disciplinary hearings are a frequent occurrence. He stated “in the early years” disciplinary hearings occurred “a lot.” Dougherty explained during a federal inquiry years ago, a recommendation was made that the business manager stay out of the business of the executive board and to not be a trustee. Dougherty explained the executive board is the trial board.

Dougherty was asked whether he would have attended a disciplinary hearing for which he had preferred charges. He stated, “Yeah. I know he had it. I don’t know where I was.” Dougherty was asked why he preferred charges against Rocks for a threat that he had made two years prior, and why he preferred them when he did (in June 2014). He stated, “I don’t remember. He hasn’t stopped. He still does it.”

Dougherty was asked why he withdrew the charges against Rocks. He replied, “It’s not really my style. I don’t remember exactly. I never want to do anything to anyone. The guy has threatened to kill me – maybe one day he will. Maybe I was just trying to address it.” Dougherty surmised the time frame may have been around the time when organized crime and the Pagans were trying to interfere with the Convention Center and were trying to kill Dougherty. Dougherty had an argument with them at the Convention Center. Rocks called Dougherty and put a carpenter on the phone then got back on and said, “They’re gonna kill you.”

Dougherty was advised Rocks had made a comment on a Facebook post about retaliation and that clarification was needed to ensure Rocks was not retaliated against for running for office. Dougherty responded, “Again, it’s a continuing pattern with Kenny... The environment of what was going on at that time...” Dougherty was advised there were allegations among the membership that if they run for office, they are going to be brought up on charges or go through some sort of financial loss. Dougherty was looking at his cell phone, seemingly ignoring the questions. Josem noted McConnell was rehired immediately after he was laid off and asked, “What are you guys talking about here?”

Dougherty was asked whether the charges brought against Rocks were connected to him running for office in the 2014 election, and he replied, “No.” Dougherty was asked why Rocks was told that the supervised rerun election in 2014 cost the union \$50,000. Dougherty questioned who said that. Dougherty stated, “You’re going off of Kenny Rocks, Charlie Battle, and unsigned letters.” Dougherty was again asked whether Rocks was told the election cost \$50,000 and whether this was connected to the charges/fine against Rocks. Dougherty explained elections cost money, but there was “no way” it would cost \$50,000. He asserted there was no connection with the fine levied against Rocks and the election.

Dougherty stated, “Kenny wasn’t ready to go back to work. I told him, ‘You can get work anywhere you want. Go to work.’” Rocks called Business Agent Brian Stevenson some years ago and asked if other members were called before and after him for jobs. Dougherty stated, “I’d recommend Kenny to work for anyone as an electrician.”

Dougherty was asked what his response was to allegations that business agents have told members that it would be “career suicide” to run for office. Dougherty responded, “Oh come on, would you please? That’s absolute nonsense. You gotta put names to this. These are rumors and innuendos.” Dougherty lamented the government is giving credibility to unsigned letters. He stated, “I can’t be picked on every single day.”

Dougherty was advised Rocks mentioned that once it was made known he was running for office in 2014, he got phone calls, his family got phone calls, almost as though they were being attacked. Dougherty was asked, “Why not just let him run?” He replied, “Rules are rules. If they’d have just followed the rules and said they wanted to run, came down... Tara [Chupka] buried her parents to drugs. She’s my daughter. I think he [Battle] almost knocked her over one night at the meeting.” Dougherty explained Chupka and Battle usually sit in the same row during membership meetings, and that when Battle got up and was walking down the aisles waving his arms he almost knocked Chupka over. Dougherty talked to Battle about it and told him to be careful. Dougherty told Battle, “They come to meetings to hear information, not to see your sideshow.”

Dougherty continued, “Charlie Battle knows what he’s doing. No one’s intimidating Charlie or Kenny. They can go and get jobs anywhere. There’s no pattern here. They’re big boys. They’re not gonna send a piece of literature out. The latest Kenny Rocks argument is he said I don’t have the power to put people to work.” Dougherty continued, “That’s his dad’s brother-in-law, Mike Driscoll – he’s married to Kenny’s aunt. There’s not much love between the two of them. Mike owned Finnegan’s Wake. Kenny used to drink there. His dad was the number two FOP [Fraternal Order of Police] guy –a

RI – John Dougherty
November 19, 2020
Page 15 of 15

legendary guy. He didn't even communicate with Kenny. He used Mike. It was his father calling his brother-in-law saying, 'What are you doing, rocking the boat? Johnny's doing so much. What're you bringing to the table?'"

Dougherty was asked whether he would be willing to provide a written statement. He and the attorneys emphatically stated, "No."